

VETO MESSAGES
OF
GOVERNOR GARY E. JOHNSON

FORTY-FIFTH LEGISLATURE
FIRST SESSION AND FIRST SPECIAL SESSION

2001

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FOREWORD

The Forty-Fifth Legislature, First Session, passed 483 bills that were sent to Governor Gary E. Johnson for his approval or disapproval. This total included 275 house bills and 208 senate bills. The governor signed 352 bills into law: 203 from the house and 149 from the senate. He vetoed 131 bills, including one by pocket veto - 72 from the house and 59 from the senate - and partially vetoed four..

During the First Special Session of the Forty-Fifth Legislature, nine bills were passed, including four from the house and five from the senate. The governor signed three bills into law: one from the house and two from the senate. He vetoed six bills; there were no partial vetoes.

One bill was passed in the Second Special Session of the Forty-Fifty Legislature, and signed by the governor

The exact texts of the executive messages that accompanied the vetoed and partially vetoed bills are reproduced here.

The following abbreviations are used in headings:

CS	committee substitute
Fl/a	floor amendment
FS	floor substitute
H	house bill
HCR	house concurrent resolution
HJM	house joint memorial
HJR	house joint resolution
HM	house memorial
L.D.	legislative day
S	senate bill
SCR	senate concurrent resolution
SJM	senate joint memorial
SJR	senate joint resolution
SM	senate memorial
SR	senate resolution

**VETO MESSAGES OF HOUSE BILLS
FORTY-FIFTH LEGISLATURE
FIRST SESSION**

CS/H 22 & 28 LOTTERY TUITION SCHOLARSHIP FUNDING

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 72

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 22 and 28, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill changes the revenue distributions to the state lottery tuition fund. I have already signed into law Senate Bill 59, with which this legislation irreconcilably conflicts.

H 23 AMEND ENROLLMENT GROWTH PROGRAM UNITS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 87

I have this day VETOED and am returning HOUSE BILL 23, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill amends the calculation for the student enrollment growth units to increase and significantly impact the Student Equalization Guarantee funding formula by increasing the individual student unit value.

This proposed unit valuation was to address the unplanned student population increase and accompanied resource needs imposed on growing districts that lost students. At the same time, the proposal would have held-harmless districts that lost students.

In the case of students gained and lost, the steady decline in enrollment over the last four years from 330,522 to 320,277, a 10,245 student loss, has conversely increased operational dollars in

all districts because general funds have increased every year. Consequently, the formula has historically increased.

The existing funding of the State Department of Education should be adequate to help the few school districts that need contingent resources. The department should support them through this growth period.

H 26 STATE COMPTROLLER AND OFFICE CREATED

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 58

I have this day VETOED and am returning HOUSE BILL 26, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create more bureaucracy by creating a state agency to oversee the existing oversight agencies. This is a poor use of taxpayer's money. The duties that would be assigned to a new State Comptroller's Office under the bill are performed currently by existing state agencies and Legislative staff. There is no need to duplicate these responsibilities.

H 29 AMEND EDUCATIONAL RETIREMENT BENEFITS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 90

I have this day VETOED and am returning HOUSE BILL 29 enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation provides an incentive for public school employees to work longer in their careers to increase their retirement multiplier and in turn augment their retirement benefits. Although I support initiatives to encourage experienced teachers to stay in the classroom, I do not feel this bill provides the proper method to accomplish this goal. The New Mexico Education Retirement Act provides teacher retirees with a comparatively generous distribution, so this bill offers few educators a strong enough incentive to consider staying in school.

I believe that the other bills I have signed into law this session regarding education retirement better address the shortage of teachers and the vacancies in schools.

H 31 PRECINCT BOARD COMPENSATION INCREASE

March 15, 2001

HOUSE EXECUTIVE MESSAGE NO. 14

I have this day VETOED and am returning HOUSE BILL 31, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would enact law to provide for an increase in compensation for precinct board members. I have signed into law Senate Bill 16, which is identical to this bill, creating a conflict and making it unnecessary.

H 46 STUDENT ENHANCEMENT ACT

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 59

I have this day VETOED and am returning HOUSE BILL 46, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill describes valuable programs that should be part of any general education program and are already being offered in many schools. Additional funding, if required, should be provided through the funding formula.

\$1.5 million (Tutoring Programs: Grades 6, 7, and 8) was vetoed from the GAA [Chapter 64, Laws of 2001].

H 49 CHANGE AT-RISK INDEX CALCULATION

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 81

I have this day VETOED and am returning HOUSE BILL 49, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

The Public School Funding Formula, since its inception in 1974 and throughout most of its history, was based on estimated costs associated with providing educational programs to students with diverse needs. The at-risk factor calculations proposed in House Bill 49, as amended, bear no relationship to any costs of at-risk programs or the costs for meeting the needs of at-risk students.

The GAA contained language for a \$1.2 million State equalization Guarantee allocation for the at-risk factor, contingent on the passage of House Bill 49 or similar bill. The contingency language was vetoed.

H 60 AMEND MEDICAID PROVIDER ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 110

I have this day VETOED and am returning HOUSE BILL 60, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require Medicaid providers to demonstrate that good cause exists to refuse to renew health care professional contracts. It would also prohibit discrimination against health care professionals based on race, ethnicity, gender, religious beliefs or sexual orientation and provide a civil cause of action for violations. This legislation addresses discrimination, which should be fought at every opportunity. However, there are numerous civil rights laws that protect against this very type of discrimination. Furthermore, this legislation would force Medicaid providers to continually contract with health care professionals, whether they wanted to or not. This is contrary to the idea that parties should be free to contract with whomever they wish and poses an unfair burden on the Medicaid providers within our managed care system. I believe it is essential to take the necessary steps to ensure that our managed care system will continue to serve as a model of effective, efficient delivery of superior health care services.

H 70 PURCHASE SERVICE CREDIT FOR MILITARY SERVICE

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 86

I have this day VETOED and am returning HOUSE BILL 70, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation would have removed certain educational retirement eligibility restrictions for a small number of individuals who served and received an honorable discharge from the military or commissioned corps of the Public Health Service. The existing law provides veterans the opportunity to purchase service credit during the first three years of employment for each year of service.

This bill proposes to move well beyond the first three years of employment. The window would now be permanently open, a window of opportunity affecting very few.

Current education retirement law provides a reasonable opportunity for veterans to buy military service credits. No compelling reason appears to justify any expansion.

H 85 ALCOHOLIC BEVERAGE SALES IN STATE MUSEUMS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 61

I have this day VETOED and am returning HOUSE BILL 85, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation would extend state liquor licenses to include state museums. I have vetoed similar bills in the past, and do so again, because I do not want the state, through its state museums, to engage in the business of selling alcohol.

H 86 RAISE EXPENDITURE CAP ON STATE HIGHWAY AND TRANSPORTATION DEPARTMENT FUNDS

March 15, 2001

HOUSE EXECUTIVE MESSAGE NO. 19

I have this day VETOED and am returning HOUSE BILL 86, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill raises the State Highway and Transportation Department's spending cap on road funds that may be earmarked for public transportation projects. Although I favor increased executive agency flexibility, I do not believe it is wise to encourage the depletion of funds from needed highway and road projects in our state.

H 87 STATE FINANCIAL CONTROL AND AUDITS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 111

I have this day VETOED and am returning HOUSE BILL 87, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill proposes significant increases in the authority of the State Auditor's Office. It would require detailed reporting by State agencies to the Office of the State Auditor. These reporting requirements are either duplicative of current procedures or unnecessary. House Bill 87 would allow the State Auditor to use contract auditors to jointly conduct audits. Other changes proposed in the bill, such as the implementation of the procurement card, are already being implemented and require no further changes to statute.

CS/H 90 & 96 AMEND PER DIEM AND MILEAGE ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 112

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 90 and 96, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill increases mileage and per diem rates for employees as well as non-salaried public officers. I believe the current reimbursement is fair.

H 91 ONGARD SERVICE CENTER CREATED

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 71

I have this day VETOED and am returning HOUSE BILL 91, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create a new administrative agency to operate the ONGARD service center. The ONGARD service center exists today, as it has for several years, under a joint powers agreement among its three user agencies: the State Land Office, the Energy, Minerals and Natural Resources Department and the Taxation and Revenue Department.

Although initially this complicated system had several problems, the three user agencies have worked out most of them. I have received input from the oil and gas industry who informed me that the system is much improved, especially in the last two years. I also understand from the industry that communication between the private sector and the center is growing, which should lead to further enhancement and refinement of the ONGARD system.

There is no need to create yet another unit of state government. Furthermore a more formal structure would actually curtail the managerial and resource flexibility necessary to deal with the underlying issues.

H 108 ONE-BUS CONTRACTORS STATUS CHANGE

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 55

I have this day VETOED and am returning HOUSE BILL 108, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

The current Public School Code provides for the transportation of students through school bus service contracts with owner-operators or fleet operators. Certain restrictions apply. Local school board approval is required and compliance with the Procurement Code is mandatory.

This legislation would sweep aside the competitive bidding process for student bus services by allowing an individual owner-operator to convert to a fleet operator.

This wholesale statutory carve-out from the Procurement Code and "any other provision of law to the contrary" may prove to be inequitable and inefficient as it tends to discourage competition for school bus transportation services.

H 111 UNIFORM TRUST CODE

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 62

I have this day VETOED and am returning HOUSE BILL 111, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would enact the Uniform Trust Code into New Mexico law. While I am generally supportive of uniform laws as a means to provide certainty in the courts, I am troubled that New Mexico would become one of the only states to enact these new uniform provisions. Were I to sign this bill, our state would be forced to work out the open legal questions presented by the Uniform Trust Code, leading to increased litigation in our courts and greater legal expenses for our citizens.

H 117 CERTIFIED MOTOR VEHICLE LIABILITY POLICY

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 63

I have this day VETOED and am returning HOUSE BILL 117, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill amends the Mandatory Financial Responsibility Act (MFRA) to mandate coverage for anyone an insured driver allows to drive his or her insured vehicle. The legislation would harm competition in the auto insurance industry, make insurance more expensive for New Mexico's consumers, and unfairly interfere with citizens' right to restrict the use of their automobiles by other people.

H 118 NO ADDITIONAL FEE FOR FIRST-TIME INSURED

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 64

I have this day VETOED and am returning HOUSE BILL 118, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation would prohibit an insurer from charging a higher rate or an additional assessment, surcharge or fee because the insured is a first-time purchaser of automobile insurance or because an individual has not been insured for a period of time immediately prior to the purchase of automobile insurance. I have vetoed this bill in the past, and do so again, because it would prohibit insurers from using an individual's driving record or prior history of auto insurance as an underwriting or rate factor. The statistics show that persons in these categories have a higher frequency of accidents and a greater loss rate. The result of enactment of this legislation would be to have those loss rates spread to all insured thereby increasing auto insurance rates for all New Mexicans.

H 137 BOARD OF REGENTS MANDATORY TRAINING

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 73

I have this day VETOED and am returning HOUSE BILL 137, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This requires the members of each Board of Regents of state educational institutions to attend orientation and in-service training programs. Because the Boards of Regents are appointed by the Governor, I believe the executive has the discretion to determine the levels of experience and training necessary for his or her appointees.

H 152 AMEND EDUCATIONAL RETIREMENT ACT

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 82

I have this day VETOED and am returning HOUSE BILL 152, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill allows a retired teacher to return to teaching after a year's hiatus and continue to receive retirement benefits. I have signed into law Senate Bill 716, which duplicates the provisions of this legislation, except for the appropriation section.

CS/H 155 CAPITAL OUTLAY PROJECTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 75

I have this day VETOED and am returning HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR HOUSE BILL 155, as amended with emergency clause and certificate of correction, enacted by the Forty-Fifth Legislature, First Session, 2001.

I previously indicated to the legislative leadership that I would veto the capital appropriation bill absent a personal income tax cut for all New Mexico citizens who pay income taxes. The tax cut that is needed is \$36 million recurring in FY 2002 and \$72 million recurring in 2003. I was willing to negotiate this phase-in; however, the tax cut bill that was passed and sent for signature did not meet the guidelines that I very clearly set out for the legislature at the beginning of the session. I am therefore keeping my promise to veto this legislation.

This veto of the capital projects bill will result in a 12 percent operating reserve balance at the end of FY 2002. In addition, the bonding capacity that would have been available for statewide capital projects will now be available for Public School Critical Capital Outlay. If this capacity is not used for such purposes in the near future, revenues from mineral production taxes may revert to the Severance Tax Permanent Fund. Given the recent significant declines in investment values, I believe this reversion is a viable option.

I am still hopeful that the legislature will enact a tax cut for all citizens. Given the billion dollars of new money that the state is projected to generate in the current and next fiscal year, we have an obligation to return some of this surplus to taxpayers.

H 156 ADDITIONAL NOTICE OF WATER RIGHTS

March 13, 2001

HOUSE EXECUTIVE MESSAGE NO. 10

I have this day VETOED and am returning HOUSE BILL 156, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill changes the notice requirements with regard to permit applications for the acquisition of water rights. I have signed into law House Bill 833, which also changes these requirements by mandating that the State Engineer publish notice of such application in a newspaper that circulates in counties potentially affected by the proposed diversion of water. House Bill 833 will provide additional protection to communities' water rights without placing the heavy burden of a mailing requirement on applicants.

House Bill 156 directly conflicts with the provisions of House Bill 833 and could dissuade our citizens from seeking to put to efficient and beneficial use New Mexico's precious water resources.

H 165 EXTEND GENERAL OBLIGATION BONDS TIME LIMIT FOR SCHOOLS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 114

I have this day VETOED and am returning HOUSE BILL 165, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would extend the time limit for the issuance of General Obligation bonds by certain school districts, counties and municipalities from three years to four years. I have vetoed this bill in the past and do so again because increasing the delay between the authorization and issuance of bonds would encourage inefficient use of the bonding authority. Voters should be able to see a direct connection between the projects they approve and their property tax levy. This proposal would further blur that connection and make it harder for voters to hold local officials responsible for proper financial management.

H 192 INCREASE TIRE RECYCLING FEES

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 70

I have this day VETOED and am returning HOUSE BILL 192, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would raise registration fees on all vehicles by at least fifty cents. The revenue would go toward finding alternative uses for discarded tires.

The idea appears sound at first glance. Finding alternative uses for discarded tires extends the life of landfills and may create new industries here in New Mexico. We have tried this program before, enacting a fee approximately twice the size of this one in 1994. Results were at best mixed. In 1999, the Legislature converted these fees to paying bonds for highway construction and other road improvements.

We are being asked to increase taxes to renew a governmental program of indifferent results. Unless and until a stronger case can be made, I cannot approve taking more money from the public for this purpose.

H 211 MEDICAID MANAGED CARE PROGRAM EXCLUSIONS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 74

I have this day VETOED and am returning HOUSE BILL 211, with certificate enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the Human Services Department to exclude several programs from the Salud! Medicaid managed care system including intermediate care facilities for the mentally retarded, certain in-home and community-based waiver services and some early intervention services. This bill would severely restrict the flexibility of the Salud! Program and hamper its ability to offer options and choices to its varied population. Salud! is an effective program because it adapts and evolves by offering different health care alternatives to different groups thereby ensuring that all eligible New Mexico citizens can receive superior health care. Creating a law limiting choices and options could turn a state-of-the-art program into a system that is non-responsive and ill prepared to address the numerous problems that face our citizens.

H 215 ADDITIONAL JUDGESHIPS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 91

I have this day VETOED and am returning HOUSE BILL 215, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would appropriate \$4,729.3 for additional judgeships including staff, salaries, benefits, furniture, supplies, equipment and funding for the District Attorneys and the Public Defender. I have signed into law Senate Bill 68, which makes an appropriation for salary increases including judges and judicial employees.

Due to the heavy burden placed on the General Fund by Senate Bill 68, it would be inadvisable to sign this bill also.

CS/H 247 & 576 PRESERVE ACEQUIA AND DITCH WATER RIGHTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 65

I have this day VETOED and am returning HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR HOUSE BILL 247 AND 576, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill exempts acequia and community ditch associations from forfeiture of water rights due to a failure to put water to beneficial use. Through state-approved water conservation programs, there already exists a mechanism for these organizations to protect their water rights. I see no need to make certain water users above the law.

H 268 NATIONAL WORLD WAR II MEMORIAL APPROPRIATION

March 12, 2001

HOUSE EXECUTIVE MESSAGE NO. 5

I have this day VETOED and am returning HOUSE BILL 268, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill appropriates \$100,000 to contribute to the national World War II Memorial in Washington, D.C. I have already signed into law Senate Bill 100, as amended, which appropriated \$100,000 for this same purpose. As I understand it, our contribution of \$100,000 via Senate Bill 100 places New Mexico well above most states with a similar number of World War II veterans, and that the state memorial campaign has already surpassed its fundraising goal of \$15 million. While I support the purpose of this bill and applaud the Legislature for its efforts in passing legislation to fund this worthy endeavor, I believe that a second appropriation for the memorial is unnecessary.

H 302 PRESCRIPTION DRUG BENEFITS FOR SENIORS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 113

I have this day VETOED and am returning HOUSE BILL 302, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would expand the mission of the Retiree Health Care Authority beyond benefits for eligible retiree groups and allow certain citizens to participate in prescription drug program. Senior prescription drug and other health care issues are more appropriately resolved at the federal level rather than in a piecemeal fashion at the state level. Also, it is not affordable in the overall budget scheme.

H 318 PREVENT YOUTH ACCESS TO TOBACCO PRODUCTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 66

I have this day VETOED and am returning HOUSE BILL 318, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill prohibits the use of cigarette vending machines and other tobacco self-service methods in businesses accessible to minors. Although I fully support efforts to reduce tobacco use among New Mexico's children, this bill does not provide an effective strategy to accomplish this worthy goal. It would instead place a tremendous burden on this state's small business community, especially those tobacco vendors who are ill equipped to restrict access to their establishments.

H 343 INCREASE STATE MINIMUM WAGE

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 67

I have this day VETOED and am returning HOUSE BILL 343 enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation increases the minimum wage in New Mexico. Minimum wage jobs typically are reserved for entry level positions. These positions are typically held by those just entering the workforce and provide first-time work experience and opportunities for those new to the workforce. Increasing the minimum wage would result in fewer opportunities for these individuals. As a matter of public policy we are emphasizing the importance of work. Decreasing the available number of entry level jobs would be counter productive to those efforts.

H 349 IN-PERSON ABSENTEE VOTING

March 15, 2001

HOUSE EXECUTIVE MESSAGE NO. 18

I have this day VETOED and am returning HOUSE BILL 349, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill provides that in-person absentee voting may be conducted until 5:00 p.m. on the Saturday immediately prior to the election. I have signed into law House Bill 484, which duplicates this provision and is in direct conflict with the bill I have signed.

H 356 AMEND INFORMATION TECHNOLOGY MANAGEMENT ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 92

I have this day VETOED and am returning HOUSE BILL 356, as amended, with emergency clause enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill removes the Chief Information Officer and members of his staff from membership on the Information Technology Commission. Of the thirteen primary and four advisory members of the Information Technology Commission, only three are required to have any information systems background. Accomplishing the mission of the Information Technology Commission will be difficult without the Chief Information Officer having permanent status on the Commission.

H 357 HEALTH PROVIDER TAXES AND HEALTH PLAN CONTRACTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 68

I have this day VETOED and am returning HOUSE BILL 357 enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation would make unenforceable any contract term between a health care provider and health care plan that does not allow the provider to pass gross receipts taxes to the plan. Such a bill interferes with the right of private citizens to freely negotiate business contracts, and would place such a burden on managed care organizations that they would be forced to decrease the amount of funds available for patient care.

H 379 AMEND SEVERANCE TAX BONDING ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 93

I have this day VETOED and am returning HOUSE BILL 379 enacted by the Forty-Fifth Legislature, First Session, 2001.

The bill, like Senate Bill 190, which I have already vetoed, proposes changing the statutory test for issuance of supplemental severance tax bonds. The effect of the change would be to increase supplemental bond capacity at the expense of the transfer to the severance tax permanent fund. This proposal would continue a trend of diverting money from the permanent fund to increase current spending. This trend must stop because the permanent fund is an important source of future year funding to the General Fund. In addition, the permanent fund corpus is already being eroded by the deterioration in stock values.

H 390 CREATE EQUAL PAY TASK FORCE

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 94

I have this day VETOED and am returning HOUSE BILL 390, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill creates a task force to study pay equity. While this issue may warrant legislative attention, I do not support the creation of unnecessary task forces.

H 454 STATE TRUST LAND IMPROVEMENTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 56

I have this day VETOED and am returning HOUSE BILL 454, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill appropriates \$1.22 million from the state lands maintenance fund to the State Land Office for watershed restoration, remediation of contaminated sites and unauthorized landfills, stabilization of archeological sites and management of invasive weeds on state trust land. I have signed into law Senate Bill 326, which appropriates this same amount for the same purposes. While I support the purpose of House Bill 454, I believe that a second appropriation is unnecessary.

H 469 AMEND EDUCATIONAL RETIREMENT ACT

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 83

I have this day VETOED and am returning HOUSE BILL 469, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill creates an additional three-year window of opportunity for education employees to purchase exempt status service credit. The provisions of this bill benefit a small segment of the public school community, and the employees who could take advantage of this new window have already had an adequate opportunity to purchase such service credit.

H 481 MUNICIPAL LAW ENFORCEMENT SERVICES

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 69

I have this day VETOED and am returning HOUSE BILL 481, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation allows municipalities with populations under 5000 to contract with the State police for municipal law enforcement services. The bill specifies that such services will be rendered at a cost equal to 50 percent of the salaries of the assigned officers. Such a law would diminish New Mexico State Police effectiveness by diverting officers whose costs would only be reimbursed at a fraction of their actual value.

H 491 COVERAGE FOR CHRONICALLY ILL CHILDREN

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 76

I have this day VETOED and am returning HOUSE BILL 491, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would change the voluntary home visitation program and expand the State Children's Health Insurance Program (SCHIP) to cover young adults ages nineteen to twenty one suffering from catastrophic, life-threatening or significant chronic illnesses. Currently, New Mexico maintains a state-of-the-art, cost effective health care model. While I understand the desire to help this unfairly affected group of young adults, expansion takes money. This legislation does not appropriate state funds to administer this expanded coverage and even if additional state funds were available, which they are not, the federal government would not provide matching funds under current federal law. Consequently, no matter how much we would like to help this

unfairly affected group of young adults, we cannot and should not expand any of our programs beyond what we can afford as a state; it simply isn't responsible.

H 496 MORA COUNTY EMERGENCY DISASTER RELIEF

February 13, 2001

HOUSE EXECUTIVE MESSAGE NO. 2

I have this day VETOED and am returning HOUSE BILL 496, as amended, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation would appropriate \$3.2 million from the general fund to the counties of Mora, Union, Harding, San Miguel, Guadalupe, Torrance and Santa Fe for disaster relief due to the recently heavy snowfalls in these areas.

In recognition of the public safety and health threats that exist in these counties, I recently signed Executive Order 01-08 providing each county up to \$750,000 in disaster relief assistance pursuant to Sections 6-7-2 and 6-7-3 NMSA 1978. I concur with the purpose of House Bill 496 and appreciate the Legislature's efforts for attempting to find solutions for these emergency circumstances. However, because these counties are eligible for emergency funding under current law, I do not believe it is necessary to duplicate the disaster assistance process.

If, however, these counties are not adequately aided by the state's disaster relief program, I am certainly willing to re-examine the process and, together with the Legislature and the affected counties, to act accordingly.

H 499 CONTROL OF PINK BOLLWORM INFESTATION

March 13, 2001

HOUSE EXECUTIVE MESSAGE NO. 11

I have this day VETOED and am returning HOUSE BILL 499, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would enact law to provide for the eradication of the pink bollworm. I have signed into law Senate Bill 484, which is identical to this bill, creating a conflict and making it unnecessary.

H 509 CONDEMNATION PROCEEDINGS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 95

I have this day VETOED and am returning HOUSE BILL 509, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

Changing the condemnation laws to soften the requirement of disclosure of appraisals by both parties could create the perception that information (i.e., the appraisal) is being withheld, and therefore result in higher litigation costs.

H 534 WATER PROJECT FINANCE ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 99

I have this day VETOED and am returning HOUSE BILL 534, as amended with emergency clause enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill creates the Water Trust Board whose purpose is to set up criteria for and oversee state water project financing. Additionally, the bill creates a fund and appropriates money to the fund. I fully support the idea of centralizing state water project financing. However, due to the other funding choices the legislature made this session there currently is no money available to provide funding for this purpose. I did, however, sign Senate Bill 169 which accomplishes the same purpose without the appropriation.

H 537 PRESCRIPTION DRUG ID CARDS

March 13, 2001

HOUSE EXECUTIVE MESSAGE NO. 9

I have this day VETOED and am returning HOUSE BILL 537, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the state's Superintendent of Insurance to design a uniform prescription identification card for use by all persons receiving prescription drugs. While I understand that a "uniform" card could ease the process associated with obtaining prescriptions, such a card appears to duplicate information currently used by health care providers, health insurers and state government. Accordingly, I do not see the need to increase health care costs in New Mexico for the purpose of creating additional paperwork for New Mexicans receiving prescription medication.

H 539 NEW MEXICO AGRICULTURAL PRODUCTS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 89

I have this day VETOED and am returning HOUSE BILL 539, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation exempts public school purchases of New Mexico grown agricultural products from provisions of the Procurement Code.

The purpose of the Procurement Code is to provide fair and equal opportunity for all businesses to provide goods and services to instrumentalities of the state. Carving out New Mexico farm products creates an uneven playing field for those businesses wishing to negotiate with school districts in good faith. The addition of exceptions to the Procurement Code with no basis other than to address parochial concerns is not a change in the law that I can support.

H 548 MEDICAID REIMBURSEMENT FOR CHIROPRACTIC COSTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 78

I have this day VETOED and am returning HOUSE BILL 548, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would expand the current Medicaid system to allow licensed doctors of oriental medicine and chiropractic physicians to provide services to Medicaid clients. It also contains a provision that mandates equal pay rates that are not applicable to services delivered within Medicaid managed care. Currently, the Medicaid managed care organizations offer some of the proposed services as enhanced services. This bill removes some of the flexibility that makes the New Mexico Salud! Medicaid managed care program a model of effective efficiency. This flexibility allows the program to address the needs of a varied population by adapting and evolving. Removing this flexibility would only serve to make Salud! less responsive to the needs of New Mexicans who depend on the managed care program for their health care needs and that is unacceptable.

H 553 COVERAGE FOR REQUIRED MEDICAL DIETS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 77

I have this day VETOED and am returning HOUSE BILL 553, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require expanded coverage by all insurance plans for medical diets necessary to control inborn errors of metabolism that involve amino acids, carbohydrates and fat. While I am mindful of the problem this legislation is attempting to address, it unfortunately conflicts with House Bill 59 which I signed earlier this session. However, due to the serious nature of the problem addressed in this bill I will direct my Human Services and Health Departments to work together with those affected by this disorder to determine possible solutions so that this issue can be addressed.

H 559 CHANGE CERTAIN IN-PLANT TRAINING PROVISIONS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 100

I have this day VETOED and am returning HOUSE BILL 559, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would change the current In Plant Training Program. It is not prudent to expand a program that is currently underfunded.

H 562 SPECIAL AGRICULTURAL PRODUCTS LICENSE PLATES

March 15, 2001

HOUSE EXECUTIVE MESSAGE NO. 20

I have this day VETOED and am returning HOUSE BILL 562, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would allow for the creation of a special New Mexico license plate that includes the slogan, "New Mexico—Taste the Tradition." I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as firefighters. The special plates that currently exist are more than ample to provide New Mexico's motorists a choice when registering their vehicles.

H 589 IN-PLANT TRAINING RESIDENCY REQUIREMENTS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 98

I have this day VETOED and am returning HOUSE BILL 589 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would expand the exceptions to current in-plant training residency requirements to include projects located within fifty miles of the New Mexico border. The purpose of the in-plant training program is to hire and train New Mexicans. Additionally, it is not prudent to expand a program that is currently underfunded.

H 599 INVEST IN MINORITY-OWNED SMALL BUSINESSES

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 106

I have this day VETOED and am returning HOUSE BILL 599, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would modify the existing New Mexico Venture Capital Program to require consideration of state investment in minority-owned businesses. I believe that such funds should be available to all business opportunities that further the economic development objectives of New Mexico, regardless of the racial or ethnic background of the business owners seeking venture capital monies.

CS/H 645 WATER RIGHTS MEDIATION AND ARBITRATION

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 79

I have this day VETOED and am returning HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 645, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill allows the Office of the State Engineer to employ mediation and arbitration to resolve water rights adjudications. The provisions of this bill are unnecessary; nothing in current law prohibits the State Engineer from employing alternative dispute resolution practices instead of litigation to determine water rights.

CS/H 671 MEDICAL NECESSITY ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 101

I have this day VETOED and am returning HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR HOUSE BILL 671, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create in statute criteria to be used in determining "medical necessity" with respect to decisions about authorizing health care services. The term "medical necessity" is at the heart of Salud! Medicaid Managed Care in that it relates directly to when and what type of health care is provided depending on the specific situation. This is yet another attempt to hamper the Department of Human Service's operation of Salud! Medicaid Managed Care by limiting their ability to make decisions on a daily basis and in turn allow them to provide the most cost effective and highest level of service to their clients.

H 689 TRANSPORTATION MANAGEMENT INFORMATION SYSTEM PILOT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 96

I have this day VETOED and am returning HOUSE BILL 689, as amended, with emergency clause enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation continues the public school transportation formula development and implements a pilot transportation management information system. The bill appropriates \$200,000 from the transportation emergency fund to the state department of education for two years for those purposes.

The Legislative Education Study Committee and the State Transportation Director want formula refinements made to accommodate roadway miles, elevation, high fuel costs and charter school transportation impact on a district. Oversight of this project would be provided by the State Department of Education. While continuing modifications to the state school transportation funding formula is prudent, such changes can best be provided by current staff and financial resources.

H 721 PUBLIC EMPLOYEE BARGAINING ACT

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 84

I have this day VETOED and am returning HOUSE BILL 721, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill enacts the Public Employee Bargaining Act to provide public employees with the ability to employ collective bargaining. I have vetoed similar legislation in the past, and do so again. Collective Bargaining for Public Employees sunsetted on July 1, 1999. Since that sunset state employees have not been harmed. In fact state employees are already protected by a host of federal and state laws, not to mention employee-friendly state agency and office policies. If New Mexico is to continue to take a businesslike approach to state government, it must be able to hold its employees accountable.

H 740 ESTABLISH MEXICAN AFFAIRS OVERSIGHT COMMITTEE

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 105

I have this day VETOED and am returning HOUSE BILL 740, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill creates a ten-member legislative interim committee known as the Mexican Affairs Oversight Committee, and also creates the Office of Mexican Affairs as part of the executive branch. The purpose of this committee and office is to address the common economic, political, cultural and infrastructure issues that exist between this New Mexico and Mexico with respect to local, state and national governments. I recognize the importance of building strong relationships with our southern neighbors; both my office and the agencies of the executive branch have and will continue to adequately explore and discuss all cross-border issues with Mexico's government and its citizens to ensure border development. I see no need to duplicate our current efforts.

H 746 CREATE INTERIM LONG-TERM CARE COMMITTEE

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 80

I have this day VETOED and am returning HOUSE BILL 746, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create an Interim Long-Term Care Oversight Committee to help determine how to implement the Long-Term Care Services Act and make recommendations to the Legislature on adopting rules and legislation. However, a Long-Term Care Committee already exists. It includes several legislators and has been successful in numerous initiatives. The existing committee can address questions about implementation and legislation concerning the Long-Term Care Act. It does not make sense to create a separate and distinct entity when a committee is in place with a proven track record of achieving results.

H 756 EARLY PROCESSING OF ABSENTEE BALLOTS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 104

I have this day VETOED and am returning HOUSE BILL 756 enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation amends the state Election Code to allow members of absent voter precinct boards to open official "outer" envelopes of absentee ballots prior to the day of an election. New Mexico has recently seen the need for election reform, but this bill would move us backward instead of forward. Such a change in the law could foster election abuse by putting absentee ballots at risk of tampering and, in turn, undermine citizens' right to vote in a fair, free and secure process.

H 770 UNIFORM ATHLETIC AGENTS ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 103

I have this day VETOED and am returning HOUSE BILL 770 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would enact the Uniform Athlete Agents Act to provide a uniform process for registration and certification of athlete agents and to provide standards for the representation of student athletes by such agents. While I am generally supportive of uniform laws as a means to provide certainty in the courts, I am troubled that New Mexico would become one of the few states in this country to enact these provisions. In addition, the regulation of agents for student athletes is best left to governing organizations such as the National Collegiate Athletic Association.

H 774 SERVICE CREDIT FOR JUDICIAL RETIREMENT

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 85

I have this day VETOED and am returning HOUSE BILL 774, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill allows judges to purchase up to two months service credit toward their retirement. I have already vetoed a version of this bill, Senate Bill 420, and do so again, because while I sympathize with judges whose terms will expire before they obtain full retirement benefits, I generally disfavor changes in the law that permit a certain class of public employees to avoid those requirements generally applicable to our state's workforce.

H 792 REPEAL DELAYED REPEAL OF PUBLIC UTILITY ACT

March 15, 2001

HOUSE EXECUTIVE MESSAGE NO. 22

I have this day VETOED and am returning HOUSE BILL 792, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill removes the 2003 repeal of the Public Utility Act, and creates a joint interim legislative committee to review the Public Utility Act and its affect on the Electric Utility Industry Restructuring Act of 1999. Such changes in the law are unnecessary: two legislative sessions remain for the state to determine whether extending the life of the Public Utility Act is necessary, and the Legislature already has the authority to create an interim committee—it need not enact law to do so.

H 834 POINT OF DIVERSION FOR WATER APPROPRIATIONS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 57

I have this day VETOED and am returning HOUSE BILL 834, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill instructs the State Engineer to approve under certain conditions an application for a permit to change the point of diversion of an existing surface water right. It is imprudent to embark upon a practice of statutorily setting forth the requisite elements of various types of applications to be filed with the State Engineer. House Bill 834 is vetoed on the basis that it would codify flawed and erroneous statements of hydrology. The State Engineer informs me, however, that an application setting forth the very elements, supported by hydrological evidence, contained in paragraph C of that bill would be approvable. Vetoing this bill does not bar water rights owners from filing such applications as those contemplated by House Bill 834; nevertheless, it is vetoed reluctantly and only with the assurance of the State Engineer that his staff will assist the filing of such applications conforming to the elements of paragraph C of this legislation.

H 865 MEDICAID MANAGED CARE FOR NATIVE AMERICANS

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 102

I have this day VETOED and am returning HOUSE BILL 865 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would allow Native Americans to terminate enrollment in managed care at any time and allow those who choose to participate but who do not select a specific MCO to be automatically enrolled with and MCO controlled by the Navajo Nation or a consortium of tribal governments. It would also allow the Human Services Department (HSD) to enter into a joint powers agreement with an MCO developed and controlled by the Navajo Nation or a consortium of tribal governments. Currently, HSD policy allows Native Americans to be excluded from managed care, unless they choose to participate. Eliminating the lock-in period could affect the continuity of client care while serving as a disincentive to the MCO to give the best preventative and ongoing health care services. This legislation would reintroduce automatic enrollment with an MCO controlled by the Navajo Nation or a consortium of tribal governments which directly contradicts the position taken by the New Mexico tribal governments fervently advocating free choice.

H 879 HEALTH COVERAGE OPTIONS FOR SMALL BUSINESSES

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 107

I have this day VETOED and am returning HOUSE BILL 879 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would allow small business employers to purchase health care benefits as part of a consolidated purchase under the state Health Care Purchasing Act. This change in law would potentially create an additional burden to the state employee benefit program which costs are ultimately borne by the taxpayers.

**H 909 EMERGENCY MEDICAL TECHNICIAN AND FRATERNAL
ORDER OF POLICE SPECIAL REGISTRATION PLATES**

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 108

I have this day VETOED and am returning HOUSE BILL 909 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill requires the state Motor Vehicle Division to issue a special license plate to any person who is a New Mexico emergency medical technician, other emergency personnel, or a New Mexico member of the fraternal order of police so long as an additional fee of \$25 is paid to the division. As I have stated previously, I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as firefighters. Although this exception would apply to EMTs, I do not believe it necessary to provide special plates to fraternal organizations of public servants such as police.

H 915 ADULT SERVICES DEPARTMENT ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 97

I have this day VETOED and am returning HOUSE BILL 915, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create an Adult Services Department to administer state services to seniors and other adults. Creation of a new government agency would only serve to add another layer of bureaucracy and fragment the delivery of social services, especially Medicaid. The state already provides state-of-the-art, cost effective programs for New Mexico's needy citizens, we need not interfere with the high quality of services already provided.

CS/H 926 AMEND OIL AND GAS PROCEEDS PAYMENT ACT

April 6, 2001

HOUSE EXECUTIVE MESSAGE NO. 109

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 926 enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation requires oil or gas well operators to make a diligent effort to furnish oil and gas proceeds payors the current name, address, and interest percentage of each interest owner. It also provides that if the operator fails to make diligent effort, the interest owner has a right to recover damages from the operator on the amount of payment that failed to get to the owner, plus an 18 percent penalty. Such a change in the law is unnecessary; interest owners currently have a legal right to recover penalty interest if payors fail to tender timely payment of the owners' interest in the proceeds.

H 930 NEW MEXICO TAXPAYER BILL OF RIGHTS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 60

I have this day VETOED and am returning HOUSE BILL 930, enacted by the Forty-Fifth Legislature, First Session, 2001.

Every tax system should be managed in a fair and even-handed manner. Government should constantly strive to improve tax administration and ease the reporting and administrative burdens for both the public and the state, through the use of new technologies and efficient workload processes. Tax administration laws and procedures should be clear to the general public in order to ensure that taxpayers understand reporting requirements and examination procedures. The refund process for overpayments should be fair and prompt. House Bill 154, as amended, made a number of such improvements which is why I signed it.

Section 5 of House Bill 930 conflicts with one of the major benefits enacted by House Bill 154. Because House Bill 154 is already law, the enactment of House Bill 930 will supersede and effectively eliminate the reforms just enacted under House Bill 154. Second, the bill creates an

ambiguity regarding whether and under what circumstances the department may be required to provide free counsel to indigent taxpayers. Finally, the allowance of attorneys fees and costs, including the costs of expert witness fees in certain circumstances, is far more generous than that available to ordinary litigants in district court and could have had unexpected fiscal consequences.

I have instructed Taxation and Revenue Secretary Ellington and members of his department to work with the sponsor and other interested parties to resolve the remaining issues and present to me, a bill that I would support.

CS/H 949 RAPID RESPONSE INTERVENTION PILOT

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 88

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 949, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation is the embodiment of a current education trend that attempts to address a large complex problem by creating a pilot program to address a select number of schools in need of improvement. Unfortunately, the proposed structure of providing some grant awards for summer professional development programs helping certain teachers, administrators and other staff is deficient in addressing the real need of improving individual student academic performance in all schools, not just those in need of improvement.

In addition, this legislation appropriates funding for a Student Equalization Guarantee funding formula and an Impact Aid finance equity study. Such research can be accomplished from existing resources.

Consequently, this legislation fails for two reasons: students, not adults, need assistance and equity analyses should be outside the boundaries of failing schools.

CS/H 972 PERFORMANCE MEASURES AND TARGETS ACT

March 21, 2001

HOUSE EXECUTIVE MESSAGE NO. 21

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 972, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill contains over 400 performance measures and targets that would be applied to selected State agencies during fiscal year 2002. These measures are in addition to the 435 performance measures for the same agencies already included in the General Appropriation Act of 2001("GAA").

Performance measures and targets are an integral part of the state's performance-based budgeting initiative as codified in the Accountability in Government Act. The goal of the Act is to improve performance and accountability in State government. While I definitely support this goal, I cannot support the approach taken in this legislation:

- Performance measures must be established by the staff and management of the agencies and must be based on their strategic plans and budgets. Once developed, a consultation process should occur with the Legislature for a proper exchange of ideas. Some of the measures in House Bill 972 were designed by the Legislature without the agreement of the affected agencies or were developed without clear connection to the agencies' strategic plans and budgets. This is fundamentally at odds with the intent and letter of the Act.
- The sheer number of performance measures included in House Bill 972, when combined with the measures in the GAA, constitutes an unworkable burden of reporting and compliance for the state agencies. It is essential that we focus on a core set of meaningful measures. Experience will indicate whether that list should be expanded or revised.
- Performance measures should not be set in statute. Appropriate measures will be revised annually as agency missions and budgets evolve. Rather than a statute, these measures should be recorded in the form of a memorial that documents the agreement between the Executive and the Legislature.

Performance-based budgeting is an initiative that can truly reform state government to the benefit of all New Mexicans. I look forward to working with the Legislature to implement this reform.

**VETO MESSAGES OF SENATE BILLS
FORTY-FIFTH LEGISLATURE
FIRST SESSION**

S 70 AMEND PUBLIC EMPLOYEES RETIREMENT ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 73

I have this day VETOED and am returning SENATE BILL 70, enacted by the Forty-Fifth Legislature, First Session, 2001.

The New Mexico Public Employee Retirement Association (PERA) has for many years prohibited the disclosure of information about members unless the member consents to the disclosure. This protects the 54,975 active members of PERA.

The proposed legislation would remove this protection. This legislation would allow the names and addresses of both members and retired members to be released to certain non-profit organizations. While innocuous on its face, this legislation breaches the wall of privacy our 72,537 active and retired PERA members have come to expect. No compelling public policy rationale is offered that justifies this breach of association member privacy.

S 75 PUBLIC EMPLOYEE BARGAINING ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 58

I have this day VETOED and am returning SENATE BILL 75, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill enacts the Public Employee Bargaining Act to provide public employees with the ability to employ collective bargaining. I have vetoed similar legislation in the past, and do so again, because collective bargaining would serve only to grind state government to a halt while failing to provide much if any additional protection for state workers. State employees are already

protected by a host of federal and state laws, not to mention employee-friendly state agency and office policies. If New Mexico is to continue to take a businesslike approach to state government, it must be able to hold its employees accountable.

S 109 AMEND EDUCATIONAL RETIREMENT ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 59

I have this day VETOED and am returning SENATE BILL 109, as amended, with certificate of correction, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill provides technical cleanup and changes to the Education Retirement Act. Although I look favorably upon most of these changes, I do not agree with the provision of the bill that allows persons to purchase service credit for time spent in the military. This section of the bill does not provide a limit on the number of years purchased, which could render the Education Retirement Board's actuarial tables unsound and conflict with federal tax laws.

S 111 ELECTRICITY SALES TAX ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 43

I have this day VETOED and am returning SENATE BILL 111, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would change the basis for taxing the retail sale of electricity. It would become effective with the deregulation of the electricity industry.

Deregulation of the electricity industry has been delayed until 2007 under legislation I have already signed. Although Senate Bill 111 presents a plan to avoid possible loss of tax base due to deregulation, it is not necessary to enact this legislation now. We have time to learn from the experiences of other states. Another approach may prove superior.

S 118 ADDITIONAL NOTICE FOR WATER RIGHTS

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 54

I have this day VETOED and am returning SENATE BILL 118, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill changes the notice requirements for permit applications for the acquisition of water rights. I have already signed into law House Bill 833, providing for additional notice for water rights acquisitions. House Bill 833 irreconcilably conflicts with the provisions of this legislation.

CS/CS/S 124 et al. REDUCE INCOME TAX RATES

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 44

I have this day VETOED and am returning SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 124, and SENATE BILLS 213, 343 & 43, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill is the response to my request for a \$75,000,000 income tax reduction. After the legislative session began, I agreed in a spirit of compromise to phase in the cut over two years. I expected in return a tax cut that covered everyone, including the middle class—the majority of New Mexico income taxpayers. The proposal sent to me provides less than half of the permanent tax relief asked for. Although it does pull the top rate down from 8.2 percent to 7.7 percent as I asked, it also lowers the dollar amount at which the highest level kicks in. Middle class taxpayers receive no permanent benefit.

The bill grants needed gross receipts tax relief to select taxpayers. Easing the pyramiding built into the gross receipts tax system is something New Mexico must continue to work on. Such improvements, however, should have been in addition to, not in place of, a permanent lowering of income tax rates for everyone who pays income tax.

It is my hope that, after the legislators have had some time to recover from the intense pressures of the session, we will be able to come up with a tax break that New Mexicans deserve.

Teachers, professors, state workers, judges, everyone in state government received a raise this session. How about a raise for the rest of New Mexico by lowering all citizens' income taxes?

S 131 CHILDREN AND FIREARMS SAFETY ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 55

I have this day VETOED and am returning SENATE BILL 131, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill requires gun merchants to provide either trigger locks or lockboxes when they sell a firearm. Although this country is taking a hard look at similar gun safety measures, no states in the Southwest have mandated the use or sale of trigger locks by firearms dealers. Moreover, nothing in this law assures New Mexico that supplying trigger locks will result in increased gun safety, since locks and lockboxes are easily discarded. Finally, this bill could create a hardship on small gun merchants in this state who would lose sales to surrounding states. Only new guns would be required to have the trigger locks at purchase and pawn shops would be excluded.

CS/S 142 NEW MEXICO PRESCRIPTION DRUG ACT

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 84

I have this day VETOED and am returning SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR SENATE BILL 142, as amended without emergency clause enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would enact the New Mexico Prescription Drug Discount Act and create a new prescription drug discount program within the Human Services Department. While the intent of this bill may be well founded its purpose cannot be carried out without an appropriation. Unfortunately due to overspending by the legislature, I was placed in a position of vetoing many laudable projects in the General Appropriation Act. This was one of those projects.

S 143 MEDICAID PRESCRIPTION DRUG PLAN FOR SENIORS

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 86

I have this day VETOED and am returning SENATE BILL 143, as amended with emergency clause enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the Human Services Department to design and implement a prescription drug benefit for persons 65 and older with incomes less than or equal to 100% of the Federal Poverty Level, who have no other prescription coverage. While the intent of this bill may be well founded, its purpose cannot be carried out without an appropriation. Unfortunately, due to overspending by the legislature, I was placed in a position of vetoing many laudable projects in the General Appropriation Act. This was one of those projects.

S 151 "CESAR CHAVEZ DAY" AS LEGAL HOLIDAY

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 53

I have this day VETOED and am returning SENATE BILL 151, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill establishes a legal holiday, "Cesar Chavez Day", on the last Saturday in March. Although I appreciate the significant achievements of Cesar Chavez as one of America's most notable labor rights leaders, I have consistently been opposed to creating additional state holidays by law. In addition, House Joint Resolution 16 passed in the legislature this session, will place the issue of the establishment of a holiday honoring Mr. Chavez on the ballot in the November 2002 election. Thus declaring a holiday honoring Mr. Chavez is going to the voters.

S 153 HEIGHT OF MOTORCYCLE HANDLEBARS

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 52

I have this day VETOED and am returning SENATE BILL 153, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill repeals the requirement that motorcycle handlebars be set at a minimum height above the seat. I have already signed into law House Bill 387, which duplicates this bill, making it unnecessary.

CS/S 156 MEDICAL NECESSITY ACT

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 85

I have this day VETOED and am returning SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR SENATE BILL 156, as amended, with certificate of correction enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create in statute criteria to be used in determining "medical necessity" with respect to decisions about authorizing health care services. The term "medical necessity" is at the heart of Salud! Medicaid Managed Care in that it relates directly to when and what type of health care is provided depending on the specific situation. This is yet another attempt to hamper Human Service Department's operation of Salud! Medicaid Managed Care by limiting their ability to make decisions on a daily basis which allow them to provide the most cost effective and high level of service to their clients.

S 166 PERFORMANCE CONTRACTING ACT

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 80

I have this day VETOED and am returning SENATE BILL 166, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

The performance-based budgeting initiative is codified in the Accountability in Government Act. The goal of the Act is to improve performance and accountability in state government. While I support this goal, I cannot support the increased bureaucracy called for in this legislation. Aspects of performance contracting will be included in the continuing implementation of the Accountability in Government Act.

S 190 AMEND SEVERANCE TAX BONDING ACT

March 15, 2001

SENATE EXECUTIVE MESSAGE NO. 14

I have this day VETOED and am returning SENATE BILL 190, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would permit the issuance of additional supplemental severance tax short-term debt in years when severance tax bonding fund revenue has increased. The proceeds of supplemental severance debt have been authorized for building improvements at public schools and higher education institutions. The additional debt would result in reduced transfers to the severance tax permanent fund. Reduced balances in the permanent fund would in turn mean lower revenue to the state general fund in future years. Thus, the proposal would trade off future general fund revenue for additional spending on public schools and higher education institutions.

In the last two years, the state has made a substantial down payment on improving facilities at public schools and higher education institutions around the state. An additional \$74 million was provided for these purposes this year. That number will increase to over \$150 million in the coming year.

While I have supported these increases to meet critical infrastructure problems around our state, I am also concerned that the increased spending has come at the expense of transfers to the

severance tax permanent fund. This fund is one of the two permanent funds that provide an important contribution to annual general fund revenue. This contribution will exceed \$400 million in the coming fiscal year.

My principal concern with Senate Bill 190 is that it would further reduce the permanent fund and therefore future general fund revenue. By depositing money in the permanent fund now, we help insure future funding for our schools. We must preserve that funding and fulfill our commitment to future generations.

CS/S 248 STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 92

I have this day VETOED and am returning SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR SENATE BILL 248 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would allow the same retirement benefits for correctional officers as is provided to state police officers. While I am mindful of the problems associated with recruiting and retaining correctional officers, I do not believe the answer lies in further enriching an already rich retirement benefit. Currently, state employees can begin working at age 18 and retire at age 44, this bill would allow retirement of that same individual at age 39. I have been faced with decisions concerning increasing retirement benefits throughout my administration and have maintained the consistent position of refusing to do so. Having said this, however, I did approve salary increases for correctional officers this session and am open to considering additional increases due to the hazardous conditions these individuals face everyday.

S 265 SPECIAL REGISTRATION PLATES

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 51

I have this day VETOED and am returning SENATE BILL 265, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation requires that the state Motor Vehicle Division issue state license plates featuring the artwork of certain fraternal organizations. As I have stated previously, I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as firefighters.

S 285 SPORT SHOOTING RANGE ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 50

I have this day VETOED and am returning SENATE BILL 285, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill provides legal protection to sport shooting ranges when persons purchase nearby property knowing that the range exists. I view this bill as an anti-property rights legislation. I have always sought to protect individual property rights. I cannot, however, provide virtually limitless protection to certain property owners at the expense of other property owners. I am concerned that the effect of this bill would be to provide permanent status to gun ranges, forcing cities to create draconian regulations to prevent the creation of any new ranges, lest allow such property use to go permanently unchallenged. I would much prefer a law that provides protection to shooting ranges and takes into account the property rights of all of New Mexicans.

S 303 LEGISLATIVE PARENTAL INVOLVEMENT ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 65

I have this day VETOED and am returning SENATE BILL 303, as amended, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation creates a new funding mechanism to promote parental involvement in our public schools. The bill provides encouragement to schools to promote school and community partnerships.

This proposal does not improve a school's fund-raising ability, and probably structures a system to reward schools that are already highly organized and able to raise money for specific needs.

The financial benefits to be gained are grants based on the ratio of the amount of money raised by the school and the percentage of students eligible for free and reduced lunch.

This bill has little to offer creating a network of productive partnerships to improve our schools.

CS/S 307 EDUCATION REFORM APPROPRIATION ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 56

I have this day VETOED and am returning SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 307, as amended, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill appropriated \$40.5 million for expenditures in FY 01 through FY 03 to carry out selective provisions of proposed Public School Reforms Act — almost 50 percent for additional payments to teachers. I am vetoing this bill, as I am vetoing the Public School Reform bill, to eliminate the current appropriations and the commitment to excessive future general fund commitments.

CS/S 308 et al. PUBLIC SCHOOL REFORMS

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 69

I have this day VETOED and am returning SENATE EDUCATION COMMITTEE SUBSTITUTE FOR SENATE BILLS 308, 373 AND 485, as amended, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation is vetoed on both fiscal and policy grounds. Fiscally, this legislation is unaffordable, both now and in the future. While I have been presented arguments suggesting that I sign this legislation without the appropriation, it would not be responsible to burden future legislatures and our citizens with an unpaid obligation. Furthermore, from a policy perspective, this reform package, while containing some good ideas also has faults which should be avoided in future reform measures. New Mexico students deserve reforms that work; parents deserve reforms that help; and taxpayers deserve reforms they can afford.

Fiscal Issues

Among its numerous provisions, this bill commits the state to more than \$305 million in additional appropriations in FY 02 through FY 05, according to Education Initiatives and Accountability Task Force estimates. The estimated reform increases, along with modest estimates of 4 percent growth in all other public school funding, would push the expected additions for public schools (FY 02 through FY 05) to \$577 million--more than 70 percent of the total state revenue increases for that same period. The bill's Senate sponsors call it a "down payment", clearly implying many more costs to come. This smacks of reform at any cost. I have already signed legislation appropriating approximately \$180 million "new dollars" for public education this year. In addition, an equal sum will be spent on school construction.

Not only are the costs of the package high and uncertain, but also questions about how to pay for it have gone unanswered. When challenged, the bills proponents take a "sign now, pay later" approach. Using consensus revenue estimates and realistic government-wide expenditures 2001-2005, the administration argues again that this reform package is without question unrealistic and unaffordable. One is left with the unspoken assumption and inescapable conclusion that this reform package will require future tax increases, an invasion of the states permanent fund or both. That's unacceptable.

Policy Issues

While claiming to be the "next leap forward" in education reform, the 126-page package offers up small improvements in school accountability, makes minor changes in school governance and only pilot tests a teacher merit pay plan. This reform plan is silent on increasing school choice,

offers little hope to the approximately 69,000 students trapped in our 166 failing schools and fails to fundamentally alter the bureaucratic nature of our public school system. Rather than push relentlessly for academic results, this legislation focuses on a new regulatory/licensing strategy for teachers. Rather than concentrate on helping low income students in failing schools, this legislation establishes assessment councils, regional service centers and mandates school advisory councils. Instead of demanding a result-oriented approach from top to bottom, this legislation continues down the path of regulating education inputs and processes--more curriculum mandates, more testing formats and more money for much higher salaries.

Our schools need to improve. We will accomplish this goal by setting high standards, relentlessly measuring results and by expanding school choice all in a fiscally prudent fashion. I look forward to enacting such education reform legislation in the 2002 legislative session.

S 342 HEALTHCARE FINANCE ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 49

I have this day VETOED and am returning SENATE BILL 342, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill expands the purposes of the current Hospital Equipment Loan Act. I have signed into law House Bill 171, which irreconcilably conflicts with the provisions of Senate Bill 342. Therefore, I am vetoing this bill.

S 354 FLORAL PRODUCTS GROSS RECEIPTS EXEMPTION

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 45

I have this day VETOED and am returning SENATE BILL 354, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill addresses a concern of florists on how the gross receipts tax applies to their interstate wire order business.

It is unfortunate that this bill conflicts with two others, House Bill 119 and House Bill 743, as amended. Since House Bill 743 addresses a more widespread problem, it should take precedence.

I am also informed that the Taxation and Revenue Department believes that an administrative solution to this issue has been made available by House Bill 154 which I have already signed. The Department will be happy to report its progress to the appropriate interim committee.

S 357 COMMUTING SHEEP OR GOATS INSPECTION FEES

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 76

I have this day VETOED and am returning SENATE BILL 357, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would limit to one time per year the inspection fee on goats and sheep traveling from states bordering New Mexico. I have already signed into law House Bill 194, which duplicates the provisions of this legislation.

S 381 LEGAL NOTICES

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 81

I have this day VETOED and am returning SENATE BILL 381 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill requires government entities to send first-time published copies of legal notices to all newspapers, magazines, radio stations and television stations that submit a written request to be notified. I am concerned that the bill would impose such an onerous burden on state agencies that they would often violate the state's notice laws, leading to a deluge of litigation and resulting in marked government inefficiency. There must exist a better way to make sure that our state's media outlets stay informed.

**CS/S 413 HEALTH CARE COVERAGE FOR UNMARRIED
DEPENDENTS**

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 60

I have this day VETOED and am returning CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR SENATE BILL 413, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require group health care coverage of unmarried dependants until the age of twenty-five. It would help address the problem of young adults who cannot afford or obtain health insurance coverage and seems like a step in the right direction. However, as currently written, this legislation relates to any group health care coverage and does not specifically exclude Medicaid. The New Mexico Salud! Medicaid managed care program is a model of efficiency that maintains responsible cost restraints, while delivering superior health care services. Presently, Salud! does not cover young adults until their twenty-fifth birthday, and to do so would cost the state millions of additional dollars and require an expansion of staff and administration that is unthinkable. New Mexicans have come to expect an extremely high level of health care services because Salud! operates so efficiently and effectively. It does not make sense to put services, vital to so many, in jeopardy. A more tailored piece of legislation that addresses this problem but specifically excludes Medicaid would be more acceptable for all New Mexicans.

CS/S 418 EXPAND MEDICAID FOR CERTAIN CUSTODIAL PARENTS

March 15, 2001

SENATE EXECUTIVE MESSAGE NO. 13

I have this day VETOED and am returning SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 418, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would expand the current Medicaid system to include certain parents of Medicaid-eligible children. Salud! As it presently exists provides New Mexico the ability to maintain a state-of-the-art, cost effective health care service model for the state. This bill would add millions of additional dollars and multiple layers of bureaucracy to this successful program. For

the sake of these citizens' need for proper care, Salud!'s success should not be infringed by further expansion.

S 420 AMEND JUDICIAL RETIREMENT ACT

March 14, 2001

SENATE EXECUTIVE MESSAGE NO. 10

I have this day VETOED and am returning SENATE BILL 420, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill allows judges to purchase up to two months service credit toward their retirement. I have vetoed similar legislation in the past that would have made exceptions to the state's retirement laws for teachers and state police officers. Although I sympathize with judges whose terms will expire before they obtain full retirement benefits, I am not in favor of changes in the law that permit a certain class of public employees to avoid those requirements generally applicable to our state's workforce.

S 432 OFFICE OF MEDICAID IN SCHOOLS

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 61

I have this day VETOED and am returning SENATE BILL 432, as amended, without certificate of correction, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would create an office within the State Department of Education to administer the Medicaid in the Schools (MITS) program and establish a Medicaid in the Schools Advisory Counsel. The Human Services Department (HSD) currently administers the MITS program in New Mexico and obtains federal matching funds to support the program. This proposed change would fragment program administration and funding. It would create multiple layers of bureaucracy and require interagency cooperation without a clear primary agency with accountability. The Human Services Department is diligently working to make the MITS program in New Mexico a model worth duplicating nationwide. Splitting up the responsibilities and duties for this program would not create a more effective program, merely two agencies

with only partial accountability. This is a worthwhile program that should not be jeopardized simply to provide a quick fix.

S 450 INCREASE SALARIES OF ELECTED STATE OFFICERS

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 67

I have this day VETOED and am returning SENATE BILL 450, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill increases the salaries of certain elected state officials beginning January 1, 2003. Although I initially supported this legislation, I have learned that the salary increases would put New Mexico near the top of the list of elected state officer compensation in the United States. For example, the bill's proposed increase in the governor's salary would make New Mexico's governor one of the best paid chief executives in the nation, more than populous states like Maryland, Missouri, and Washington. I believe the issue of state official compensation is worthy of exploration, but not to the extent provided in this bill. In preparation for the 2002 legislative session, I look to the legislature to provide me with a state official pay increase package that takes into account: 1) the salaries of officials from other states with states of similar complexity and size to New Mexico; 2) the level of compensation necessary to attract competent and effective New Mexicans to elected office; and 3) the appropriateness of compensation in comparison to the state's financial resources.

S 476 INDEPENDENT COMMUNITY COLLEGES

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 46

I have this day VETOED and am returning SENATE BILL 476, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would break the rule established only three years ago that no new public post-secondary educational institution, branch campus or off-campus instructional center shall be created except as specifically created by the Legislature. Operating a highly fractionated post-secondary system

is not necessarily in the best interests of New Mexico. Until a real plan of action encompassing both the need for various kinds of post-secondary education and the best delivery system is agreed upon by all parties significantly affected, it is at best premature to encourage further splintering. The bill also halves the level of local support required, potentially throwing more of the burden for operating independent institutions on the general taxpayer. For these reasons, I cannot approve this bill.

S 477 LONG-TERM CARE ADMINISTRATORS ACT

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 82

I have this day VETOED and am returning SENATE BILL 477, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill expands the Nursing Home Administrators Act. It would add four new members to the Long-Term Care Administrators Board, create new licensing provisions for administrators of adult residential care facilities, and impose additional licensing requirements for currently licensed nursing home administrators overseeing adult residential care facilities.

Only four states currently require licensure of administrators of adult residential care facilities. An attempt to license these administrators, many of whom oversee programs that provide health care services to a widely diverse group of patients (everything from drug treatment to disabled care), is likely to impose generic mandates that do not truly address the functions of these facilities. I believe that such licensure requires additional study of the possible long-term effects that such a scheme would have on the residential health care industry.

S 480 MAXIMIZE FEDERAL MATCHING FUNDS FOR HEALTH

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 87

I have this day VETOED and am returning SENATE BILL 480 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the Human Services Department to identify federal matching funds in a number of other departments in state government and assist those departments in maximizing those funds. Clearly, it is the goal of all executive departments to best utilize federal funds when available. However, the decision to use federal funds must be left to the agency due to the requirements associated with receiving some federal funds which must be taken into account. Such a legislative mandate limits the ability of the executive to make good decisions.

CS/S 490 AMEND UNIFORM HEALTH-CARE DECISIONS ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 48

I have this day VETOED and am returning SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SENATE BILL 490, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation amends the state Uniform Health Care Decisions Act to expand the duties of a surrogate health care decision maker to determine the best interest of the incapacitated patient before making critical health care decisions. Although I am inclined to look favorably upon the purpose of this bill, the legislation as passed fails to provide legal protection to physicians who rely in good faith on the decisions of a surrogate. If caregivers are not provided with such a shield, then passage of this bill could lead to increased litigation.

S 503 ACUITY-BASED STAFFING ACT

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 83

I have this day VETOED and am returning SENATE BILL 503, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation requires the Department of Health to adopt regulations for minimum nursing staff by October 1, 2001. While staffing ratios are an important element in providing quality health care to individuals who are cared for by nursing facilities, these ratios are subject to changing variables and therefore, must be open to adaptation. Accordingly, the intent of this bill, while laudable, is better handled by facility administrative procedures than agency rules.

S 551 GOVERNMENTAL DISPUTE RESOLUTION ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 71

I have this day VETOED and am returning SENATE BILL 551, as amended, without emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

Alternative dispute resolution (ADR) in the private and public sectors often saves money and time. Resolving disputes among government agencies, with their myriad of programs, rules, contracts and operations, through ADR helps agencies deliver the best services at the lowest cost.

That is why I signed Senate Bill 262, the Government Dispute Resolution Act, last year along with an Executive Order supporting voluntary ADR throughout state government. This legislation mandates ADR, establishes an office of ADR and creates an ADR advisory council. Such requirements in law are highly objectionable. While vetoing this legislation, I remain a strong supporter of voluntary ADR and will take appropriate administrative steps to further effectuate New Mexico's current ADR law along with my ADR executive order.

S 563 WALLET-SIZE BIRTH CERTIFICATE REPLICAS

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 47

I have this day VETOED and am returning SENATE BILL 563, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the Motor Vehicle Division to produce, for a fee, a "certified" wallet-sized replica of a person's birth certificate. This is a function that government does not need to perform.

In addition, assigning an agency new duties unrelated to the agency's main functions simply impedes the performance of those main functions.

S 567 INCREASE LOCAL HOSPITAL GROSS RECEIPTS TAX

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 72

I have this day VETOED and am returning SENATE BILL 567, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill increases the local hospital gross receipts tax for Cibola, Sierra and Torrance counties from 1/8th of 1 percent to 1 percent. I have signed into law Senate Bill 516, which irreconcilably conflicts with the provisions of this legislation.

S 624 CONVENTION CENTER FINANCING ACT

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 68

I have this day VETOED and am returning SENATE BILL 624, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would authorize the city of Las Cruces to assess a \$2.50 per day fee on lodging for the purpose of constructing a convention center. I have consistently opposed measures that would enable local governing bodies to impose additional taxes for local construction projects without the consent of local voters.

S 641 SEPARATE MENTAL HEALTH SERVICES

March 15, 2001

SENATE EXECUTIVE MESSAGE NO. 15

I have this day VETOED and am returning SENATE BILL 641, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would exclude mental and behavioral health services from the state's managed care program, Salud!. The federal Health Care Finance Administration, acting under existing federal and state laws, recently approved the state's decision to *include* these services in managed care. I will continue to veto legislation that limits our state's flexibility to provide well-managed, cost effective, and successful Medicaid services to New Mexico's needy families.

S 648 CONSULT LEGISLATURE FOR MEDICAID CHANGES

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 88

I have this day VETOED and am returning SENATE BILL 648, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require legislative consultation and approval for Medicaid program changes. This is yet another attempt to hamper Human Service Department's operation of Salud! Medicaid Managed Care by limiting their ability to make decisions which allow them to provide the most cost effective and high level of service to their clients.

S 657 JUDICIAL RETIREMENT FOR METRO COURT JUDGES

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 89

I have this day VETOED and am returning SENATE BILL 657, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would move Bernalillo County Metropolitan Court judges from the Magistrate Retirement Act to the Judicial Retirement Act. Currently, metropolitan and magistrate court judges can retire at any age with 24 years of service credit, or at age 60 with 15 years of service credit. This change would allow them to retire and receive their pension with 18 years of service credit if they are 50 years of age or older. I have been faced with decisions concerning increasing retirement benefits throughout my administration and have maintained the consistent position of refusing to do so. Having said this, it should be noted that I did approve significant pay increases for all judges.

S 660 ANNUAL SCHOOL ACCOUNTABILITY REPORTING

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 66

I have this day VETOED and am returning SENATE BILL 660, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation would have dramatically changed the requirements of the Annual School District Accountability Report by altering the type of testing instrument to be used in all of our public schools. After only one year of use, the State Board of Education's choice of CTBS5/TerraNova standardized testing in grades three through nine would be disrupted.

This bill allows great latitude for choosing an assessment tool that measures student academic performance grades four through nine utilizing either a norm-referenced test, a criterion test, or a performance-based test.

It would cost over ten million dollars for Criterion-Referenced Tests to be developed and implemented for every regular, special education, Title I, or Limited English Proficiency student. Excluding certain student samples, the development and implementation of individual performance-based tests for the each of the estimated 63,000 special education students and 137,000 Title I students alone would be fiscally unrealistic.

While compliance with federal law is an issue, the administration believes that using the norm-referenced testing instrument measuring all students regardless of their label, will provide the state and federal governments with academic data depicting a true picture of student academic performance in New Mexico compared to other students in each of the United States.

This bill does not dramatically improve the assessment of students. To move from one test to a choice of three tests provides no child with an educational service.

S 661 PUBLIC SCHOOL ASSESSMENT AND ACCREDITATION

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 94

I have this day VETOED and am returning SENATE BILL 661 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill provides that the State Board of Education need not assess and accredit our public schools once every three years, but gives to the Board the discretion to determine the frequency in which schools are evaluated.

By changing the law only one year after the initial accreditation system was implemented this proposal is a disservice not only to the 166 probationary schools identified last year, but also to all 766 public schools in the three-year accreditation cycle. I am concerned this legislation would lead to school evaluations that are so few and far between that parents and students would not be able to get a clear picture of whether or not their schools are providing a good education.

S 662 MIDDLE SCHOOL CLASSIFICATION

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 64

I have this day VETOED and am returning SENATE BILL 662, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill adds a definition for "middle school" to differentiate public school level classification in the Public School Code.

This legislation offers no compelling reason or rationale to justify the insertion of language currently existing under elementary and junior high school definitions in the Public School Code.

S 672 GENERATION PLANT/TRANSMISSION LINES LOCATION

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 74

I have this day VETOED and am returning SENATE BILL 672, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would allow the Public Regulation Commission (PRC) to disapprove power plants or lines if it finds that the plant or lines unduly impair power system reliability. Such legislation would duplicate the regulatory structure that currently exists through the Western States Reliability Council and the Federal Energy Regulatory Commission. Since power reliability is already governed by these two entities, I see no need to expand the functions of the PRC.

S 691 COAL-FIRED ELECTRICAL GENERATING PLANT STUDY

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 95

I have this day VETOED and am returning SENATE BILL 691, as amended, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill creates a joint interim legislative committee to study the feasibility of building a coal-fired or natural gas fired electrical generating facility in northeastern New Mexico. Such a change in the law is unnecessary; the Legislature already has the authority to create an interim committee--it need not enact a law to do so.

S 692 IN-PLANT TRAINING FUNDS SELECTION CRITERIA

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 93

I have this day VETOED and am returning SENATE BILL 692, as amended enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill changes and expands in-plant training. It is not prudent to expand a program that is currently underfunded. The In-plant Training Board has already developed selection criteria that addresses some of the concerns identified in this legislation and that criteria is being finalized for an approval vote by the Board prior to implementation.

S 718 MEDICAID MANAGED CARE PREMIUMS

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 96

I have this day VETOED and am returning SENATE BILL 718, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would include Medicaid managed care premium payments in the calculation of the assessment of the New Mexico Comprehensive Health Insurance Pool (NMCHIP) to insurers in the state. Such a change in the law would serve only to increase the cost and decrease the efficacy of the state's cost-effective, state-of-the-art Medicaid managed care program, Salud!. I will continue to support this model as the best means to provide Medicaid services to New Mexico's citizens.

S 733 MEDICAID PAYMENT RATES AND ELIGIBILITY

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 62

I have this day VETOED and am returning SENATE BILL 733, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the Human Services Department to reimburse physicians participating in the Medicaid program at 125 percent of the Medicare rate. It would also add a new section to the Child Health Care Act providing that a custodial parent of a Medicaid eligible child would be eligible for Medicaid if the parent's net income is below 100 percent of the federal poverty level. Salud! as it presently exists is a successful, state-of-the-art, cost effective health care model. This bill would cost the state millions of additional dollars, require extra staff and create multiple layers of bureaucracy. The citizens of New Mexico need, deserve and currently receive proper

care through the Salud! program. For the sake of these citizens it is foolish to risk overall program success to address the needs of a few individuals.

S 736 CHOICE OF CASE MANAGEMENT AGENCY FOR DISABLED

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 97

I have this day VETOED and am returning SENATE BILL 736, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the Department of Health to promulgate regulations regarding the level of choice afforded to clients of community-based developmental disability, mental retardation, or mental health services. Such legislation is unnecessary, given that the state's current Medicaid waiver plan, approved by the federal Health Care Financing Administration, insures freedom of choice to consumers of these services.

S 740 SPECIAL PLATES FOR RETIRED NATIONAL GUARD

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 75

I have this day VETOED and am returning SENATE BILL 740, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the state Motor Vehicle Division to issue special license plates to retired members of the New Mexico National Guard. As I have stated previously, I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as firefighters.

CS/S 742 PROHIBIT TERMINATION OF PARENTAL RIGHTS

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 91

I have this day VETOED and am returning SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SENATE BILL 742 enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill amends the Children's Code to prohibit the Children, Youth, and Families Department from filing a termination of parental rights action solely on the basis of a parent's incarceration. I have already signed into law House Bill 455, which duplicates this legislation.

FS/S 744 LIMITED OUT-OF-STATE DISPOSITION OF JUVENILES

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 90

I have this day VETOED and am returning SENATE FLOOR SUBSTITUTE FOR SENATE BILL 744, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill amends the delinquency article of the Children's Code to permit judges to send juveniles out of state for commitment. While the bill provides that the out of state provider must meet certain standards and the out of state commitment in only certain situations the bill is still problematic. First, it seems counter intuitive to send our children out of state for commitment where they would be separated from their families. Second, CYFD would appear to be in the best position of determining the best placement for these children rather than being forced to send them out of state by a judges order. Finally, there is not an appropriation to go along with this bill. Thus, CYFD would be forced to cover the costs of an out of state commitment out of their current budget.

CS/S 763 HIGHER RATE OF OCCUPANCY TAX

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 78

I have this day VETOED and am returning SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR SENATE BILL 763, with emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

Although it calls the tax by another name, this bill allows Albuquerque to raise its occupancy (lodgers') tax from 5 percent to a maximum of 6.25 percent. Half of the additional proceeds could be used to repay bonds issued to renovate or build a baseball stadium.

The occupancy tax is borne by lodgers at hotels, motels, rooming houses, lodges and similar establishments. Unlike the "stadium surcharge" imposed by House Bill 907 which I signed, this proposed tax increase has little if anything to do with use of the stadium. It cannot be characterized fairly as a user fee. I see little justification for shifting the burden of renovating or building a baseball stadium on the backs of lodgers.

I believe that New Mexicans are over-taxed. I have consistently sought lower tax rates and opposed proposed tax increases. The only exception I have made is for local option taxes where the voters of the jurisdiction may vote on the question of levying the tax.

S 771 RETIRED FIREFIGHTERS' SPECIAL LICENSE PLATE

April 6, 2001

SENATE EXECUTIVE MESSAGE NO. 57

I have this day VETOED and am returning SENATE BILL 771, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill would require the New Mexico Motor Vehicle Division to issue special license plates to retired professional firefighters. As I have stated previously, I am generally opposed to the creation of special license plates for New Mexico's motor vehicles, except when they provide information to other motorists and law enforcement that the driver may require special consideration in emergency situations, such as active firefighters.

S 774 HAZARDOUS DUTY MEMBER COVERAGE PLAN

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 70

I have this day VETOED and am returning SENATE BILL 774, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

Recruiting and retaining public sector corrections employees is a challenge today. This legislation attempts to address this challenge by offering a very attractive "early retirement plan" to corrections workers.

While well intentioned, this legislation is fundamentally flawed. First, any recruitment and retention plan based upon public employees retiring at any age after only 16 years and 8 months of employment flies in the face of logic and fairness to taxpayers, who must ultimately foot the bill for such a "golden parachute" provision.

Second, this early retirement law would require a substantial increase in employer contribution. Specifically, the corrections employer contribution would be equivalent to 38 percent of employee salary. This increase will cost millions of dollars each year to fund.

Finally, there is no evidence that the legislation is actuarially sound. Without a Public Employee Retirement Association actuarial study it would be irresponsible to sign any retirement legislation.

CS/S 788 UNEMPLOYMENT BENEFITS FOR TRIBAL EMPLOYEES

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 79

I have this day VETOED and am returning SENATE INDIAN AND CULTURAL AFFAIRS COMMITTEE SUBSTITUTE FOR SENATE BILL 788, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This legislation allows Indian tribal entities to participate in New Mexico's unemployment insurance program. I have signed into law House Bill 619, which irreconcilably conflicts with the provisions of this bill.

CS/S 855 MUNICIPAL SEWER AND WATER UTILITIES

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 77

I have this day VETOED and am returning SENATE RULES COMMITTEE SUBSTITUTE FOR SENATE BILL 855, as amended, without emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill exempts from voter approval a municipality's construction and installation of a new municipal wastewater facility, and exempts such facilities from Public Regulation Commission oversight. I disfavor any change in the law that disenfranchises the voter and removes government projects from citizen accountability.

CS/S 856 STATE JUDICIAL STUDY COMMITTEE

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 63

I have this day VETOED and am returning SENATE RULES COMMITTEE SUBSTITUTE FOR SENATE BILL 856, as amended, enacted by the Forty-Fifth Legislature, First Session, 2001.

This bill creates the state judicial system study committee. The legislation is unnecessary; the Legislature already has the legal authority to create an interim committee, and therefore it need not enact a law to do so.

POCKET VETO
FORTY-FIFTH LEGISLATURE
FIRST SESSION

A pocket veto occurs only after the legislature has adjourned. During the legislative session, a bill that remains on the governor's desk for more than three days (not including Sundays) becomes law without his signature. After adjournment of the legislature, the governor has 20 days for approval or veto of bills that are passed during the last three days of the session. If a bill is not signed or vetoed by message in this 20-day period, it does not become law and is called a "pocket veto."

H 126 SPORT SHOOTING RANGE ACT

**PARTIAL VETOES
FORTY-FOURTH LEGISLATURE
SECOND SESSION**

H 1 (Chapter 1) FEED BILL

January 25, 2001

HOUSE EXECUTIVE MESSAGE NO. 1

I have this day SIGNED HOUSE BILL 1, as amended, with emergency clause and certificate of correction, passed by the Forty-Fifth Legislature, State of New Mexico, First Session, but pursuant to Article IV Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts:

On page 9, I have vetoed lines 23 through 25 and on page 10, I have vetoed lines 1 through 4. This provision originated as a Senate floor amendment and would have provided each legislator \$400.00 per month plus gross receipts tax for in-district assistance. The Conference Committee later revised this provision to apply only to senators. This provision is troubling on a number of levels, not least of which is its potential violation of the New Mexico Constitution, Article IV Section 10, which provides only for mileage and per diem for legislators and states they shall receive "no other compensation, perquisite or allowance." This appropriation, \$160,000.00, further increases spending in a bill that is already significantly over the spending related to the last sixty-day session even after excluding the expenses appropriated for reapportionment.

While troubled by this increased spending, I am hopeful that this will not become a pattern because of revenues forecasted as higher than usual this year. As I stated in the State of the State address, we must be fiscally prudent by not spending this new money in a recurring fashion. Rather, we need to increase our reserve level, properly fund our agencies and focus non-recurring spending on critical school capital needs. In fact, if we are fortunate enough to receive new revenues beyond today's forecast, all such revenue should go to school capital.

Finally, just as I do not believe it would be prudent for me to micro-manage the operation of the legislature's staff by questioning each element of this budget, I would ask the legislature's cooperation in formulating and implementing a reasonable performance-based budget for the executive branch.

CS/H 2 et al. (Chapter 64) GENERAL APPROPRIATION ACT OF 2001

March 16, 2001

HOUSE EXECUTIVE MESSAGE NO. 23

I have this day SIGNED HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2, 4, 5, 6, 7 and 8 and HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR HOUSE BILL 3, as amended, passed by the Forty-Fifth Legislature, First Session, 2001, but have VETOED the following item or items, part or parts:

On page 1, I have vetoed all of lines 6 through 7.

On page 1, I have vetoed all of lines 10 through 11.

On page 1, I have vetoed all of lines 15 through 17.

On page 1, I have vetoed all of lines 20 through 23.

On page 2, I have vetoed all of lines 16 through 25.

On page 3, I have vetoed all of line 1.

On page 3, line 5, I have vetoed through the word "measure;".

On page 4, I have vetoed all of lines 12 through 19.

On page 5, I have vetoed all of lines 3 through 9.

On page 5, I have vetoed all of lines 18 through 19.

On page 15, I have vetoed all of lines 4 through 5.

On page 16, I have vetoed all of lines 18 through 19.

On page 21, I have vetoed all of lines 3 through 11.

On page 21, I have vetoed all of lines 23 through 24.

On page 27, I have vetoed all of lines 6 through 7.

On page 33, I have vetoed all of lines 15 through 17.

On page 35, I have vetoed all of lines 15 through 19.

On page 36, I have vetoed all of lines 1 through 3.

On page 39, I have vetoed all of lines 10 through 16.

On page 40, I have vetoed all of lines 17 through 19.

On page 42, I have vetoed all of lines 15 through 20.

On page 43, I have vetoed all of lines 25.

On page 44, I have vetoed all of lines 1 through 3.

On page 45, I have vetoed all of lines 6 through 8.

On page 45, I have vetoed all of lines 13 through 14.

On page 45, I have vetoed all of lines 16 through 18.

On page 45, I have vetoed all of lines 24 through 25.

On page 46, I have vetoed all of lines 1 through 5.

On page 46, I have vetoed all of lines 7 through 25.

On page 47, I have vetoed all of lines 17 through 24.

On page 50, I have vetoed all of lines 4 through 9.

On page 50, I have vetoed all of lines 11 through 12.

On page 51, I have vetoed all of line 17.

On page 51, I have vetoed all of lines 23 through 24.

On page 52, line 1, after the word "includes", I have vetoed the remainder of line 1 and through the word "accreditation;" on line 2.

On page 52, line 5, after the word "patients" I have vetoed the remainder of line 5 and through the word "pediatrics" on line 6.

On page 52, I have vetoed all of lines 7 through 9.

On page 52, I have vetoed all of lines 13 through 14.

On page 52, I have vetoed all of lines 20 through 22.

On page 54, I have vetoed all of lines 1 through 6.

On page 54, line 11, after the word "products" I have vetoed the remainder of line 11, all of line 12, and through the word "control" on line 13.

On page 54, I have vetoed all of lines 16 through 22.

On page 55, I have vetoed all of lines 11 through 12.

On page 55, I have vetoed all of lines 24 through 25.

On page 56, I have vetoed all of line 1.

On page 56, I have vetoed all of lines 3 through 4.

On page 56, I have vetoed all of line 21.

On page 56, I have vetoed all of lines 23 through 24.

On page 57, I have vetoed all of lines 1 through 7.

On page 57, I have vetoed all of line 25.

On page 58, I have vetoed all of line 1.

On page 58, I have vetoed all of line 24.

On page 60, I have vetoed all of lines 20 through 21.

On page 61, I have vetoed all of lines 20 through 25.

On page 62, I have vetoed all of lines 1 through 12.

On page 63, I have vetoed all of lines 9 through 10.

On page 63, I have vetoed all of lines 18 through 25.

On page 64, I have vetoed all of lines 1 through 25.

On page 65, I have vetoed all of lines 1 through 5.

On page 66, I have vetoed all of lines 16 through 17.

On page 68, I have vetoed all of lines 20 through 22.

On page 72, line 21, I have vetoed the number "5%".

On page 72, I have vetoed all of lines 24 through 25.

On page 73, I have vetoed all of lines 1 through 2.

On page 73, line 3, I have vetoed the number "3%".

On page 73, line 17, after the word "program" I have vetoed the remainder of line 17, all of lines 18 through 20, and on line 21 I have vetoed through the word "Albuquerque".

On page 74, I have vetoed all of lines 17 through 21.

On page 77, line 10, I have vetoed the words "in the risk reserve".

On page 84, I have vetoed all of lines 20 through 23.

On page 85, I have vetoed all of lines 12 through 15.

On page 87, I have vetoed all of lines 20 through 22.

On page 90, line 21, starting with the word "one" I have vetoed through the word "and".

On page 93, line 17, after the word "include" I have vetoed through the word "and".

On page 93, I have vetoed all of lines 21 through 24.

On page 94, line 23, starting with the word "seventy" I have vetoed through the word "and".

On page 97, I have vetoed all of lines 1 through 5.

On page 104, I have vetoed all of lines 14 through 17.

On page 107, I have vetoed all of lines 4 through 9.

On page 108, line 18, after the word "includes" I have vetoed the remainder of line 18, all of lines 19 and 20, and through the word "county;" on line 21.

On page 109, line 3, after the word "activities" I have vetoed the remainder of line 3 and all of line 4 through the second occurrence of the word "center".

On page 110, I have vetoed all of lines 10 through 12.

On page 111, I have vetoed all of lines 6 through 18.

On page 111, line 23, after the word "services;" I have vetoed the remainder of line 23, all of lines 24 and 25, and on page 112, all of lines 1 and 2, and through the word "Act;" on line 3.

On page 113, I have vetoed all of lines 8 through 10.

On page 114, I have vetoed all of lines 19 through 22.

On page 117, line 12, under the general fund column, I have vetoed the number "800.0".

On page 117, I have vetoed all of lines 15 through 18.

On page 122, I have vetoed all of lines 17 through 21.

On page 124, I have vetoed all of lines 15 through 18.

On page 126, I have vetoed all of lines 3 through 6.

On page 126, line 11, after the word "programs" I have vetoed the remainder of line 11 and on line 12, through the word "incarcerated".

On page 128, I have vetoed all of lines 15 through 17.

On page 128, I have vetoed all of lines 20 through 23.

On page 130, line 1, I have vetoed the number "3".

On page 130, line 3, I have vetoed the number "0".

On page 130, line 5, I have vetoed the number "3".

On page 136, I have vetoed all of lines 22 through 25 and on page 137, all of lines 1 through 3.

On page 137, I have vetoed all of lines 23 through 25 and on page 138, all of lines 1 through 2.

On page 139, line 15 after the word "includes" I have vetoed the remainder of line 15, all of lines 16 through 17, and through the second occurrence of the word "and" on line 18.

On page 142, I have vetoed all of lines 23 through 25 and on page 143, all of line 1.

On page 147, I have vetoed all of lines 6 through 7.

On page 151, I have vetoed all of lines 15 through 16.

On page 157, line 15 after the word "includes" I have vetoed the remainder of line 15, all of line 16, and through the word "and" on line 17.

On page 157, line 19 after the word "university" I have vetoed the remainder of line 19 through the word "university" on line 20.

On page 158, I have vetoed all of lines 19 through 25.

On page 159, I have vetoed all of lines 1 through 2.

On page 159, I have vetoed all of lines 5 through 7.

On page 159, I have vetoed all of lines 11 through 12.

On page 159, I have vetoed all of lines 18 through 21.

On page 159, I have vetoed all of line 25 and on page 160, all of line 1.

On page 160, I have vetoed all of lines 11 through 25, and on page 161, all of lines 1 through 8.

On page 161, I have vetoed all of lines 15 through 23.

On page 162, I have vetoed all of lines 3 through 6.

On page 162, I have vetoed all of lines 14 through 20.

On page 162, I have vetoed all of lines 23 through 25, and on page 163, all of lines 1 through 6.

On page 163, I have vetoed all of lines 12 through 13.

On page 163, I have vetoed all of lines 21 through 22.

On page 164, I have vetoed all of lines 8 through 19.

On page 165, I have vetoed all of lines 16 through 25, and on page 166, all of lines 1 through 4.

On page 166, I have vetoed all of lines 12 through 16.

On page 166, I have vetoed all of lines 23 through 25, and on page 167, all of lines 1 through 4.

On page 167, I have vetoed all of lines 8 through 19.

On page 168, I have vetoed all of lines 2 through 25, and on page 169, all of lines 1 through 4.

On page 169, I have vetoed all of lines 13 through 25, and on page 170, all of lines 1 through 10.

On page 171, I have vetoed all of lines 15 through 20.

On page 172, I have vetoed all of lines 12 through 13.

On page 172, I have vetoed all of lines 23 through 25, and on page 173, all of lines 1.

On page 174, I have vetoed all of lines 2 through 25, and on page 175, all of lines 1 through 7.

On page 175, line 22, after the word "plan." I have vetoed the remainder of line 22, all of lines 23 through 25, and on page 176, I have vetoed all of lines 1 through 11.

On page 177, line 3, after the word "center." I have vetoed the remainder of line 3, all of line 4, and through the first occurrence of the word "department." on line 5.

On page 177, line 11, after the word "Act." I have vetoed the remainder of line 11, and through the first occurrence of the word "department." on line 12.

On page 178, I have vetoed all of line 6 through the first occurrence of the word "department." on line 7.

On pages 182 through 187, I have vetoed all of Section 9.

For the past three months my administration has consistently communicated to the legislature the essential parameters of the financial plan for the State of New Mexico for 2002. These parameters included a recurring, across-the-board income tax cut for all taxpayers with a

reasonable reduction in the top income tax rate, and a reasonable spending level that could be sustained in future years. Sustaining adequate operating reserves, providing protection against falling energy prices, and allowing future growth of general fund recurring appropriations, were also required.

I have met directly with the leadership of the legislature throughout the current session. A great deal of excellent communication has occurred. Cooperation and goodwill has been put forth in this process. I have continued to communicate the same parameters that were initially set forth. I thank all of you for your assistance during this process. Despite this quality communication I am frustrated with this final product as evidenced in this bill.

I indicated at the beginning of this legislative session that my intent was to communicate and to negotiate a budget that would accomplish all of our objectives. I believed, and still believe, that given the new money available such a budget was and still is possible. When I received the General Appropriation Act I met with the legislative leadership and offered to veto a number of large items giving the legislature maximum flexibility to reappropriate those dollars at a more reasonable level. This process would have allowed for the legislature to provide both a handsome compensation increase for public school teachers and educational reform. Instead the leaders did not want that flexibility and asked me to make these decisions. Last night, before making any final decisions, I met again with the legislative leadership and staff and outlined the specific items that needed to be addressed for my approval, with very limited exceptions, of an operating budget. These items included:

A \$72 million recurring income tax cut that would be phased in over two years, with benefits to all taxpayers. In fact, I indicated that although I did not believe a LICTR constituted true tax reduction, I would consider some level of tax rebate or credit in the context of an across-the-board \$72 million income tax cut.

An increase in the spending growth for 2002 to \$370 million from my initial recommendation of \$308 million. This spending increase was contingent on the enactment of my tax reduction plan. I indicated that the proposed salary increases for public schools, higher education and government could remain as proposed, with adjustments in other areas to hold spending to a reasonable level.

At present, I still have no indication that an appropriate tax reduction has been enacted, and I cannot approve the proposed spending plan without assurance of the tax reduction. I am vetoing all compensation outlined in this General Appropriations Act and am vetoing approximately an additional forty million dollars in other recurring appropriations.

With respect to the salary increases, I have vetoed them not because I believe a pay raise is unwarranted, but rather because the increases provided in the bill are unreasonable, given the total spending recommendation. In short, this bill provides for over-spending.

I must also remind the leadership that the state's operating reserve and spending level are directly related. Given the increase in spending over my initial recommendation, the general operating reserve level will have to increase proportionately to provide adequate funding for future growth of recurring appropriations.

Having discussed the reasoning associated with the majority of my vetoes, I will now outline the reasoning associated with some of the other more specific vetoes. I have once again vetoed a variety of language which attempts to restrict the executive's powers as I have each year I have been in office.

With respect to performance measures, I reiterate my statements in House Executive Message 21 delivered to you yesterday. The vetoed items fail to conform to the intent of the Accountability in Government Act as they were not developed through the process outlined in the law.

With respect to vetoes of "contingent" language, making appropriations contingent on the enactment of other substantive legislation, the legislature has included substantive law requirements in a General Appropriations Act in violation of Article IV, Section 16 of the New Mexico Constitution. In addition, the effect of making appropriations contingent on the enactment of substantive legislation places me in the position of having to forego my authority to veto substantive legislation to avoid losing the general appropriation in violation of the Constitution's separation of powers principles.

I have once again vetoed language associated with the legislature's attempt to restrict state government officials from engaging in discussions regarding the legalization or decriminalization of certain controlled substances.

I vetoed similar language in last year's General Appropriation Act. Again, such legislation is patently unconstitutional. Not only is it an illicit attempt to enact substantive law within an appropriation bill, but it also constitutes an impermissible infringement on freedom of speech as guaranteed by both the New Mexico and United States Constitutions.

The First Amendment to the United States Constitution provides that government shall make no law abridging the right to free speech. Similarly, Article II, Section 17 of our Constitution protects this right. The legislature's attempt to quash free and open dialogue on the legalization of certain controlled substances as a possible solution to this state's pervasive drug problem is the type of censorship readily and often condemned by the United States and the New Mexico Supreme Courts. I must act to protect the marketplace of ideas so that we may all freely trade our opinions regarding the solutions to the drug and crime ills that plague New Mexico's citizens.

In addition to Constitutional problems, this language is struck because the magnitude of our state and national drug abuse problem and the abysmal failure of today's drug strategies requires us to

continue to explore alternative solutions. The wholesale failure of today's "Drug War" requires New Mexico policymakers, both the legislature and the Governor, to implement new drug strategies, including sentencing reform, harm reduction, treatment and prevention.

Today's "Drug War" strategies, based largely upon prohibition, incarceration and abstinence, are not only a failure but an expensive failure. To date, the federal government has spent over \$180 billion to combat drugs while state and local governments have spent an additional \$320 billion. And in New Mexico this last year alone it's estimated that we have wasted another \$42 million on such strategies. Our war on drugs has many costs but few benefits.

Despite the ideological posturing by many elected officials favoring drug war policies, the public strongly favors a more pragmatic approach based on treatment, prevention and education. Recent polls show that a clear majority of New Mexicans want change. Citizens want policies that save lives, keep drugs out of the hands of kids and treat those suffering from drug abuse or addiction. They want common-sense, cost-effective approaches producing real results, not another decade of failed rhetoric.

We have made progress this legislative session on drug policy reform. Unstoppable forces of change are now at work: bills have been debated, votes have been cast and laws have been changed. But the task is far from complete. Throughout the remainder of my term in office I will continue to work with New Mexico's citizens and the legislature to effectuate positive, permanent change in this state's drug policy. While advocating for drug policy reform and raising public awareness about the drug problem, I will also continue my public education campaign to tell all New Mexicans that drugs are a bad choice.

With respect to drug reform, I have also vetoed language associated with funding and expanding Medicaid through tobacco settlement revenues. These dollars should not be used as such and are more appropriately used to deal with substance abuse including tobacco and drugs. Note however, that I am committed to providing breast and cervical cancer services as well as making up the underfunding of the TANF/Medicaid program. My administration will ensure these projects are funded properly.

In closing, I will state again my hope that the legislature will make another attempt to pass the tax reform plan that I have requested and so specifically outlined. I still believe that General Appropriation Act, including reasonable salary increases and an appropriate income tax reduction, can be approved.

H 997 (Chapter 344) GENERAL APPROPRIATIONS

April 5, 2001

HOUSE EXECUTIVE MESSAGE NO. 51

I have SIGNED HOUSE BILL 997, as amended, enacted by the Forty-Fifth Legislature, First Session 2001, but pursuant to Article IV Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts:

On page 1, I have vetoed all of lines 20 through 25.

On page 2, I have vetoed line 1.

On page 3, I have vetoed all of lines 10 through 19.

On page 4, I have vetoed all of lines 2 through 16.

On page 4, I have vetoed all of lines 21 through 25.

On page 5, I have vetoed all of lines 1 through 15.

On page 5, I have vetoed all of lines 19 through 23.

On page 6, I have vetoed on line 2, the semicolon and the word "and."

On page 6, I have vetoed all of lines 3 through 9.

On pages 6 through 8, I have vetoed all of Section 4.

As previously stated on numerous occasions, my administration consistently communicated to the legislature the essential parameters of the financial plans for the State of New Mexico for 2002. These parameters are simple: provide the citizens of the state with a "pay raise" via a meaningful, recurring tax cut; provide a reasonable spending level that is sustainable in future years; and provide adequate operating reserves to protect against falling energy prices.

To abide by those parameters, I have had to make the aforementioned vetoes. Funding for new programs or expansions of Medicaid are not affordable at this point in time. The legislature chose to spend almost half of all of the new spending on pay raises and that is their priority. Placing over \$150 million in recurring spending for recurring pay raises does not allow for expansion of Medicaid. We had a difficult time convincing the legislature to help us fund the existing program.

While there were some good ideas for programs in this and in other separate funding bills, the legislature made its choices on pay raises leaving me the task of balancing the budget.

CS/S 167 (Chapter 338) PUBLIC SCHOOL CAPITAL OUTLAY

April 5, 2001

SENATE EXECUTIVE MESSAGE NO. 39

I have this day SIGNED SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 167, as amended, emergency clause, enacted by the Forty-Fifth Legislature, First Session, 2001, but pursuant to Article IV Section 22 of the New Mexico Constitution, I have vetoed the following item or items, part or parts:

On page 12, line 8, after the word "cycle" I have vetoed the remainder of the line, all of line 9 and line 10 through the word "cycle".

The proposed language would have earmarked \$50 million per year in fiscal years 2002 and 2003 for allocation solely for school districts that are eligible for federal assistance, the so-called "impact aid" districts. The veto would leave this earmarking at \$20 million per year. \$20 million per year is a sufficient earmarking for this purpose. The Public School Capital Outlay Council has guidelines in place to insure that funds are allocated to the most important projects in the neediest districts. The Council may indeed decide to spend \$50 million on the impact aid districts. The decision to do so is properly left to the Council.

On page 21, I have vetoed all of sub-section C.

This section would modify the Public School Capital Improvement Act to require that all districts in the state that impose a local levy would receive a distribution from the State. This Act is designed to provide a guaranteed minimum level of funding from the State for those districts that cannot generate sufficient funds from their own property tax levies. It is inconsistent with the goals of the Act to require that funds be distributed to every district regardless of the amount generated by their own levies.

On page 30, I have vetoed all of sub-section E.

This section appropriates \$20,000 to the legislative council service for expenses incurred by the public school capital outlay task force. The council service already has large enough balances to cover these expenses without the additional appropriation.

**VETO MESSAGES OF HOUSE BILLS
FORTY-FIFTH LEGISLATURE
FIRST SPECIAL SESSION**

FS/CS/H 3 2001 HOUSE REDISTRICTING ACT, CONCEPT C

October 3, 2001

HOUSE EXECUTIVE MESSAGE NO. 3

I have this day VETOED and am returning HOUSE FLOOR SUBSTITUTE FOR HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR HOUSE BILL 3, as amended, enacted by the Forty-Fifth Legislature, First Special Session, 2001.

Although the redistricting plan for the New Mexico House of Representatives addresses one of my concerns with the previous plan – the pairing of two Republican representatives on the East side of the state – it fails to address the vast majority of the issues I raised with regard to the House plan I vetoed on September 15, 2001.

This plan continues to break apart communities of interest recognized over two decades ago; District 58 and the farming communities from East Grand Plains to Cottonwood, between Roswell and Artesia, are split, attaching Cottonwood to a gerrymandered district which runs all the way to the outskirts of El Paso, Texas some 200 miles away.

As I expressed in my previous message, the pairing of Republican House members in Albuquerque is neither warranted by population changes nor the need for competition in the area's legislative races. This plan continues to target Republicans in order to save Democrat seats.

Once again, this plan creates only two districts with 65 percent Native American voting-age population when as many as four are possible, and once again pays no attention to the need for an Indian seat in and around Gallup. Once again, House District 63 continues its unwarranted broken field run across the state. Finally, the plan once again goes out of its way to keep an Anglo island in Northern Santa Fe County for a favored incumbent.

I had hoped that my previous veto message would provide more guidance to the Legislature with regard to what plans I would consider acceptable for the citizens of New Mexico. Instead, as with other plans that have reached my desk, I am disappointed that the Legislature could not find

within itself the strength to put aside egos and partisanship to arrive at consensus redistricting plans that protect voters rather than politicians.

FS/CS/H 7 et al. 2001 HOUSE REDISTRICTING ACT, CONCEPT B

September 15, 2001

HOUSE EXECUTIVE MESSAGE NO. 2

I have this day VETOED and am returning HOUSE FLOOR SUBSTITUTE FOR HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR HOUSE BILLS 7, 12 & 17, enacted by the Forty-Fifth Legislature, First Special Session, 2001.

This plan has been vetoed because it is an obvious partisan gerrymander. It was apparently designed to ensure an unfair partisan gerrymander through the next decade. I will sign neither a Democrat nor a Republican gerrymander. What I will sign is a bill providing for a fair and competitive electoral process where New Mexico's citizens, not plan drafters, will be able to decide the membership of our Legislature for the next ten years.

Plans have been introduced that provide a significant number of competitive districts in the House. Under the vetoed plan, only eight House districts could be considered electorally competitive. Although electorally competitive districts cannot be achieved everywhere in the state, the vetoed plan appears designed for the express purpose of eliminating competition for incumbent majority party house members throughout New Mexico. The party whose candidates receive a majority of our citizens' votes should have an opportunity to elect a majority of the Legislature. This plan does not even come close to meeting that test in the House.

Population change provides the need to recast districts. New districts are required so that the Legislature reflects changing population patterns and attendant political change. An incumbent partisan gerrymandering thwarts this change. Perhaps the clearest example of an effort to thwart change in the vetoed plan is in the Albuquerque Metropolitan area. Six house districts bounded roughly by the Rio Grande to the west, Isleta Pueblo to the south, Louisiana Boulevard to the east, and Montgomery Avenue to the north suffered a net loss of nearly 6,000 people and ended the decade collectively 32,000 people below the required population for the six House districts. Instead of reducing this area by one House seat and creating a new district on the fast-growing West side of Albuquerque to reflect the population shift, the majority chose to remove a district from the Far Northeast Heights – an area which is collectively more than 5,300 people above the ideal population for a House seat. This plan was not an effort to reflect the demographic changes in Albuquerque, but a transparent attempt to preserve partisan political positions.

For various reasons, many rooted in past discrimination, Native Americans have testified to the need for a minimum of 65 percent voting age population in a district to have the opportunity to elect the candidate of their choice. The current Legislature has three House districts at that level. The vetoed plan would diminish Native American voting strength by reducing effective Native American majority districts to two. Plans proposed to the Legislature by Native American representatives show that such retrogression of voting strength is not mandated by population changes and the number of districts with an effective Native American majority can be increased in the House without conflicting with other redistricting principles.

In 1991, the Legislature ignored the significant Native American population surrounding Gallup, fragmenting that population and failing to create an effective Native American majority district. Unfortunately, the present Legislature continues via the vetoed plan to avoid creating an effective Native American district in the Gallup area.

In western Cibola County, even though District 6's Native American citizens have grown to 67 percent of the total adult population during the past decade, the vetoed House plan would dilute this population to 62 percent. This would have the effect of reducing Native American electoral opportunities in District 6. Plans have been presented to the Legislature which do a much better job maintaining Native American voting strength in this district without violating other redistricting criteria.

In House District 65, a key part of the Santo Domingo Pueblo is inexplicably left out, as well as the Cañocito area of the Navajo Nation and the Isleta Pueblo. When House District 65 was created in 1991, 70.5 percent of the voting age population was Native American. The vetoed plan reduced that percentage to 54.6 percent. This district should remain above 65 percent voting age population and plans were introduced which produced a Native American voting age population as high as 69.1 percent in this district.

In Northern Santa Fe County, which is home to many generations of Hispanic families, the vetoed plan continues selectively to dilute Hispanic voting potential so that a favored Democrat Anglo politician can enjoy an advantageous district. In this plan, District 47 has reduced Hispanic voting-age population to 22.4 percent. In so doing, an artificial island of opportunity has been left for an Anglo Democrat candidate that should not exist under traditional redistricting criteria. Plans have been introduced which allow the Hispanic population of Northern Santa Fe County to have an opportunity to elect the candidates of their choice in all four districts.

The vetoed plan breaks up the agricultural community of interest in the central Pecos Valley between Roswell and Artesia and gerrymanders itself through the center of the city of Roswell reaching out for precincts that hold nothing in common with the communities of interest long established in District 58.

In House District 63, the vetoed plan attempted to make a broken field run nearly half-way across the state, away from the community of interest established between central Clovis and central Portales. This was done for the sole purpose of adding additional members of various minority communities to the district. In so doing, the vetoed plan completely abandoned any concept of a community of interest. Clearly the predominant factor in the drawing of this district was ethnicity a potentially unconstitutional racial/ethnic gerrymander that could jeopardize the entire plan in court. The proper approach to drawing this district, which lost population in the past decade and is now under the ideal population, is to build upon the existing core community while still maintaining the majority-minority status of the district. This reasonable goal is perfectly attainable as plans have been introduced which do just that.

Redistricting is a political process, so our elected political officials are the appropriate persons to decide district lines. We need not draw judges into this political thicket unnecessarily. Therefore, I look forward to the House promptly passing a new districting plan that focuses on fairness for all of New Mexico's citizens. I hope that this Legislature will have the wisdom to pass plans ensuring that New Mexico citizens have an equal opportunity to elect the representatives and senators of their choice. When I receive a bill with such a plan from the Legislature, I will promptly sign it.

CS/H 10 2001 EDUCATIONAL REDISTRICTING ACT/CONCEPT C1

October 3, 2001

HOUSE EXECUTIVE MESSAGE NO. 4

I have this day VETOED and am returning HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR HOUSE BILL 10, enacted by the Forty-Fifth Legislature, First Special Session, 2001.

As I have repeatedly stated throughout this redistricting process, the citizens of New Mexico deserve redistricting plans that provide for fairness and electoral competition. This plan, which proposes to redraw the State Board of Education districts, is neither fair nor competitive.

This plan was designed to create at least seven safe Democrat seats. I understand that there were other Board of Education plans presented to the interim committee and to the Legislature that provided for more political competition. As with the other redistricting plans I have vetoed, this partisan power grabbing will not be permitted to override concern for the voters of this state.

Moreover, this plan fails to address Native American concerns. Specifically, this plan creates only one Native American district, District 5, containing a population of 52.28 percent voting-age Native Americans. As with other plans, Native Americans have little chance of electing a

representative of their choice unless a district contains at least 65 percent Native American voting-age population.

Once again, I am forced to veto a redistricting bill that places politics before people, that hinders real choice at the voting booth, and that evidences a wasted special session and hundreds of thousands of dollars in taxpayers' money.

**VETO MESSAGES OF SENATE BILLS
FORTY-FIFTH LEGISLATURE
FIRST SPECIAL SESSION**

CS/S 2 2001 SENATE REDISTRICTING ACT, CONCEPT A

September 15, 2001

SENATE EXECUTIVE MESSAGE NO. 1

I have this day VETOED and am returning SENATE RULES COMMITTEE SUBSTITUTE FOR SENATE BILL 2, as amended, enacted by the Forty-Fifth Legislature, First Special Session, 2001.

This plan has been vetoed because it's an obvious partisan gerrymander. It was apparently designed to ensure an unfair partisan advantage through the next decade. I will sign neither a Democrat nor Republican gerrymander. What I will sign is a bill providing for a fair and competitive electoral process where New Mexico's citizens, not plan drafters, will be able to decide the membership of our Legislature for the next ten years.

Plans have been introduced that provide a significant number of competitive districts in the Senate. Under the vetoed plan, only five Senate districts could be considered electorally competitive. Although electorally competitive districts cannot be achieved everywhere in the state, the vetoed plan appears designed to eliminate competition for incumbent majority party members throughout New Mexico.

The party whose candidates receive a majority of our citizens' votes should have an opportunity to elect a majority of the Legislature. This plan does not even come close to meeting that test in the Senate.

It is also apparent that this plan ignores traditional redistricting criteria. For example, Senate District 8 violates any reasonable concept of a community of interest by combining culturally and demographically distinct regions of New Mexico.

This plan unfairly pairs over 20 percent of the Republican caucus. Such pairings are troubling because it appears that the majority ignored traditional redistricting criteria simply to combine incumbent minority party members into single districts. In Albuquerque, a district is gerrymandered by grossly pairing two Republican senators in a district resembling a science fiction movie ray gun stretching across the Heights area of the city. Moreover, the pairing of two senators from the East side of the state is not mandated by population changes. While different regions of the state have grown at varying rates, the 12-county region of eastern New Mexico,

bolstered by growth in Lincoln and Otero counties, has enough population to maintain its present eight Senate seats.

This plan retrogresses the voting strength of New Mexico's Native American citizens. Were it adopted, it would likely be viewed as violating Section 2 of the Federal Voting Rights Act. The Native American communities of northwestern New Mexico are fragmented into districts where, by their own analysis, they lack effective voting strength to elect the candidates of their choice. The only explanation for this approach is partisan gamesmanship. Raw party politics is not a proper basis for plan drafting even if the plan it created satisfied the mandates of federal law.

For various reasons, many rooted in past discrimination, Native Americans have testified to the need of a minimum of 65 percent population in a district to have the opportunity to elect the candidate of their choice. The current Legislature has two Senate districts at that level. The vetoed plan would diminish Native American voting strength by reducing effective Native American majority districts to one. Plans proposed to the Legislature by Native American representatives show that such retrogression of voting strength is not mandated by population changes and the number of districts with an effective Native American majority can be increased in the Senate without conflicting with other appropriate redistricting principles.

Redistricting is a political process, so our elected political officials are the appropriate persons to decide district lines. We need not draw judges into this political thicket unnecessarily. Therefore, I look forward to the Senate promptly passing a new districting plan that focuses on fairness for all of New Mexico's citizens. I hope that this Legislature will have the wisdom to pass plans ensuring that New Mexico citizens have an equal opportunity to elect the representatives and senators of their choice. When I receive a bill with such a plan from the Legislature, I will promptly sign it.

S 33 CONGRESSIONAL PLAN

October 3, 2001

SENATE EXECUTIVE MESSAGE NO. 4

I have this day VETOED and am returning SENATE BILL 33, as amended, enacted by the Forty-Fifth Legislature, First Special Session, 2001.

There is hardly a way of configuring a Congressional redistricting plan for New Mexico which shows more contempt for the concept of "community of interest." This bill slices the state into what could only be described as a state fair pinwheel spinning across New Mexico, tearing apart any reasonable communities of interest -- it is partisan gerrymandering at its worst. There exists

no justification for the "pinwheel" other than contempt for the citizens of this state, their history, and their multitude of cultural interests.

This plan divides New Mexico's ranching interests, its three major crop farming areas and its dairy industry. And under this plan, the state's high-tech community is split between two districts, as are the people who work in those industries, the ancillary businesses associated with both private and government technology, the Department of Defense and Department of Energy interests. This plan also creates a district that combines Las Cruces and Albuquerque, a shared "community of interest" which has never, and does not now, exist. It divides Albuquerque (a true community of interest) three ways -- a travesty considering that the city's metropolitan area almost exactly equals the ideal size for a seat. Southwest New Mexico is split, Southeast New Mexico is split, and greater Albuquerque is split for no apparent reason other than partisanship. In sum, this plan fails to observe any of New Mexico's traditional representation patterns.

The failure of the Legislature to provide me with a fair and competitive Congressional redistricting plan, especially in light of my earlier statements of concern with regard to splitting up Albuquerque, is disappointing to say the least.

S 34 2001 SENATE REDISTRICTING ACT

October 3, 2001

SENATE EXECUTIVE MESSAGE NO. 5

I have this day VETOED and am returning SENATE BILL 34, as amended, enacted by the Forty-Fifth Legislature, First Special Session, 2001.

I had hoped that my previous veto of the proposed Senate redistricting plan would have provided sufficient guidance to the Legislature to craft an acceptable redrawing of Senate district boundaries. Yet once again, this plan fails to honor and protect the interests of the people of New Mexico, and would leave the overwhelming majority of voters disenchanted and disgusted with the redistricting process.

None of the suggestions I provided in my previous message were honored in this plan. For example, although this bill increases the voting-age Native American population of District 2, it is not enough of an increase to provide for the likely election of a Native American senator. More importantly, the plan still fails to create a second Native American district with a Native American voting-age population of 65 percent or greater. In fact, it takes the existing District 4 from above the 65 percent mark and drags it below this percentage. Likewise, this plan makes no effort to raise District 22 above 65 percent, a certainly feasible and worthwhile change.

I am thoroughly disappointed that the Legislature was unable to employ my previous message to pass a fair and competitive plan that protects all of New Mexico's diverse communities. Hundreds of thousands of dollars and countless man-hours were wasted in a process that forgot the voter and remembered only partisanship and egotistical bickering. The people of New Mexico deserve better. A plan fair for all citizens of New Mexico - Native American, Hispanic, Anglo, Republican, Democrat or third party - is possible.